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Editorial Notes

AMENDMENTS

2021—Pub. L. 117-58, div. B, title II, § 22308(b), Nov. 15, 2021, 135 Stat. 733, added item for chapter 251.

Pub. L. 117-58, div. B, title I, § 21301(i), Nov. 15, 2021, 135 Stat. 691, which directed amendment of the analysis for title 49, United States Code, by adding item for chapter 224 after item for chapter 223, was executed by adding such item to the analysis for this subtitle, to reflect the probable intent of Congress.

2019—Pub. L. 115-420, § 7(a)(4), Jan. 3, 2019, 132 Stat. 5445, added item for chapter 229 and struck out item for chapter 244 “Rail improvement grants”.

2015—Pub. L. 114-94, div. A, title XI, §§ 11301(c)(3), 11303(b)(2), 11503(c), Dec. 4, 2015, 129 Stat. 1648, 1654, 1692, struck out item for chapter 225 “Federal grants to States for highway-rail grade crossing safety”, added item for chapter 242, and substituted “Rail improvement grants” for “Intercity Passenger Rail Service Corridor Capital Assistance” in item for chapter 244.

2008—Pub. L. 110-432, div. A, title II, § 207(b), div. B, title III, § 301(b), title IV, § 401(b), Oct. 16, 2008, 122 Stat. 4875, 4946, 4956, added items for chapters 225, 244, and 285.

Pub. L. 110-432, div. B, title III, § 303(b), Oct. 16, 2008, 122 Stat. 4951, which directed insertion of the item for chapter 227 after the item for chapter 223, was executed by making the insertion after the item for chapter 225 to reflect the probable intent of Congress.

2007—Pub. L. 110-140, title XI, § 1112(b), Dec. 19, 2007, 121 Stat. 1759, substituted “Capital Grants for Class II and Class III Railroads” for “Light Density Rail Line Pilot Projects” in item for chapter 223.

1998—Pub. L. 105-178, title VII, § 7202(b), June 9, 1998, 112 Stat. 471, added item for chapter 223.

1997—Pub. L. 105-134, title I, § 106(a), Dec. 2, 1997, 111 Stat. 2573, struck out item for chapter 245 “Amtrak Commuter”.

1996—Pub. L. 104-287, § 5(56)(B), Oct. 11, 1996, 110 Stat. 3394, added item for chapter 283.

1994—Pub. L. 103-440, title I, § 103(b)(1), Nov. 2, 1994, 108 Stat. 4618, added part D and item for chapter 261,

struck out former part D “MISCELLANEOUS” and former item for chapter 261 “Law Enforcement . . . 26101”, and added part E and item for chapter 281.

PART A—SAFETY

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¹ So in original. Probably should be “Railroad Rehabilitation and Improvement Financing”.

² So in original. Probably should be “State Rail Plans”.

³ So in original. Probably should be “Project Delivery”.

⁴ So in original. Probably should be “Passenger Rail Planning”.

¹ Section catchline amended by Pub. L. 110-53 without corresponding amendment of chapter analysis.

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Editorial Notes

AMENDMENTS

2021—Pub. L. 117-58, div. B, title II, §§22403(b)(2), 22415(b), 22416(b), 22425(b), Nov. 15, 2021, 135 Stat. 736, 747, 748, 756, added items 20167 and 20169 to 20171.

2015—Pub. L. 114-94, div. A, title XI, §§11301(c)(1), 11411(b), 11413(b), Dec. 4, 2015, 129 Stat. 1648, 1687, 1689, added items 20121 and 20168 and struck out items 20154 “Capital grants for rail line relocation projects” and 20167 “Railroad safety infrastructure improvement grants”. Items 20121 and 20168 were added to the analysis for this chapter to reflect the probable intent of Congress, notwithstanding directory language adding those items to the analyses for subchapters I and II of this chapter, respectively.

2008—Pub. L. 110-432, div. A, title I, §§103(b), 104(b), 105(b), 107(b), 109(b), title II, §§203(b), 204(b), 205(b), 208(b), 210(b), title III, §303(b), title IV, §§401(b), 402(e), 406(b), 409(b), 413(b), 418(b), Oct. 16, 2008, 122 Stat. 4856, 4858-4860, 4867, 4869, 4871, 4873, 4876, 4877, 4879, 4883, 4884, 4886, 4887, 4889, 4892, added items 20116 and 20118 to 20120, substituted “Railroad trespassing, vandalism, and highway-rail grade crossing warning sign violation prevention strategy” for “Railroad trespassing and vandalism prevention strategy” in item 20151 and “Notification of grade crossing problems” for “Emergency notification of grade crossing problems” in item 20152, and added items 20156 to 20167.

2005—Pub. L. 109-59, title IX, §§9002(a)(2), 9005(b)(2), Aug. 10, 2005, 119 Stat. 1921, 1925, added items 20154 and 20155.

1995—Pub. L. 104-66, title I, §1121(g)(2), Dec. 21, 1995, 109 Stat. 724, struck out item 20116 “Biennial report”.

1994—Pub. L. 103-440, title II, §§206(b), 207(b), 210(b), 211(b), 212(b), 213(b), 214(b), 215(b), 219(b), title III, §§301(b), 302(b), Nov. 2, 1994, 108 Stat. 4621-4624, 4626, 4628, substituted “Biennial” for “Annual” in item 20116 and “cars” for “equipment” in item 20133 and added items 20145 to 20153.

SUBCHAPTER I—GENERAL

§ 20101. Purpose

The purpose of this chapter is to promote safety in every area of railroad operations and reduce railroad-related accidents and incidents.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 863.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
20101	45:421.	Oct. 16, 1970, Pub. L. 91-458, §101, 84 Stat. 971.

² So in original. Does not conform to section catchline.

The words “The Congress declares that” are omitted as surplus. The words “accidents and incidents” are substituted for “accidents” for consistency with the source provisions restated in section 20105(b)(1)(B) of the revised title. The words “and to reduce deaths and injuries to persons and to reduce damage to property caused by accidents involving any carrier of hazardous materials” are omitted as obsolete because they applied to 49 App.:1761 and 1762, that were repealed by section 113(g) of the Hazardous Materials Transportation Act (Public Law 93-633, 88 Stat. 2163).

Statutory Notes and Related Subsidiaries

SHORT TITLE OF 2021 AMENDMENT

Pub. L. 117-58, div. B, title II, §22001, Nov. 15, 2021, 135 Stat. 694, provided that: “This title [see Tables for classification] may be cited as the ‘Passenger Rail Expansion and Rail Safety Act of 2021’.”

SHORT TITLE OF 2015 AMENDMENT

Pub. L. 114-94, div. A, title XI, §11001, Dec. 4, 2015, 129 Stat. 1622, provided that: “This title [see Tables for classification] may be cited as the ‘Passenger Rail Reform and Investment Act of 2015’.”

Pub. L. 114-94, div. A, title XI, §11501, Dec. 4, 2015, 129 Stat. 1690, provided that: “This subtitle [subtitle E (§§11501-11504) of title XI of div. A of Pub. L. 114-94, enacting sections 24201 and 24202 of this title, amending section 303 of this title and section 138 of Title 23, Highways, and enacting provisions set out as a note under section 4370m of Title 42, The Public Health and Welfare] may be cited as the ‘Track, Railroad, and Infrastructure Network Act’ or the ‘TRAIN Act’.”

Pub. L. 114-73, title I, §1302(a), Oct. 29, 2015, 129 Stat. 576, provided that: “This section [amending section 20157 of this title] may be cited as the ‘Positive Train Control Enforcement and Implementation Act of 2015’.”

SHORT TITLE OF 2008 AMENDMENT

Pub. L. 110-432, div. A, §1(a), Oct. 16, 2008, 122 Stat. 4848, provided that: “This division [see Tables for classification] may be cited as the ‘Rail Safety Improvement Act of 2008’.”

Pub. L. 110-432, div. B, §1(a), Oct. 16, 2008, 122 Stat. 4907, provided that: “This division [enacting chapters 227, 244, and 285 of this title and sections 24105, 24310, 24316, 24702, 24710, 24711, 24910, and 26106 of this title, amending sections 103, 24101, 24102, 24302, 24308, 24706, 24904, 24905, 26101, and 26104 of this title, enacting provisions set out as notes under sections 24101, 24302, 24305, 24307, 24308, 24405, 24702, 24709, 24711, 24902, and 26106 of this title, and amending provisions set out as a note under section 24101 of this title] may be cited as the ‘Passenger Rail Investment and Improvement Act of 2008’.”

SHORT TITLE OF 1997 AMENDMENT

Pub. L. 105-134, §1(a), Dec. 2, 1997, 111 Stat. 2570, provided that: “This Act [enacting section 28103 of this title, amending sections 24101, 24102, 24104, 24301 to 24307, 24309, 24312, 24315, 24701, 24706, 24902, and 24904 of this title, section 8G of the Inspector General Act of 1978, Pub. L. 95-452, set out in the Appendix to Title 5, Government Organization and Employees, and section 9101 of Title 31, Money and Finance, repealing sections 24310, 24314, 24501 to 24506, 24702 to 24705, 24707, 24708, and 24903 of this title, and section 1111 of Title 45, Railroads, and enacting provisions set out as notes under this section and sections 24101, 24104, 24301, 24304, 24305, 24307, 24312, 24315, 24501, and 24706 of this title, section 8G of the Appendix to Title 5, and section 172 of Title 26, Internal Revenue Code] may be cited as the ‘Amtrak Reform and Accountability Act of 1997’.”

SHORT TITLE OF 1994 AMENDMENT

Pub. L. 103-440, title I, §101, Nov. 2, 1994, 108 Stat. 4615, provided that: “This title [enacting sections 26101

to 26105 of this title, renumbering former sections 26101 and 26102 of this title as 28101 and 28102 of this title, respectively, and enacting provisions set out as notes under section 26101 of this title and section 838 of Title 45, Railroads] may be cited as the ‘Swift Rail Development Act of 1994’.”

Pub. L. 103-440, title II, § 201, Nov. 2, 1994, 108 Stat. 4619, provided that: “This title [enacting sections 20145 to 20151 and 21108 of this title, amending sections 103, 20103, 20111, 20116, 20117, 20133, 20142, and 21303 of this title, and enacting provisions set out as a note under section 11504 of this title] may be cited as the ‘Federal Railroad Safety Authorization Act of 1994’.”

DATA ACCESSIBILITY

Pub. L. 117-58, div. B, title II, § 22405, Nov. 15, 2021, 135 Stat. 738, provided that:

“(a) REVIEW.—Not later than 180 days after the date of enactment of this Act [Nov. 15, 2021], the Chief Information Officer of the Department [of Transportation] shall—

“(1) conduct a review of the website of the Office of Safety Analysis of the Federal Railroad Administration; and

“(2) provide recommendations to the Secretary [of Transportation] for improving the public’s usability and accessibility of the website referred to in paragraph (1).

“(b) UPDATES.—Not later than 1 year after receiving recommendations from the Chief Information Officer pursuant to subsection (a)(2), the Secretary, after considering such recommendations, shall update the website of the Office of Safety Analysis of the Federal Railroad Administration to improve the usability and accessibility of the website.”

FEDERAL RAILROAD ADMINISTRATION REPORTING REQUIREMENTS

Pub. L. 117-58, div. B, title II, § 22421(a), Nov. 15, 2021, 135 Stat. 750, provided that:

“(a) ELIMINATION OF DUPLICATIVE OR UNNECESSARY REPORTING OR PAPERWORK REQUIREMENTS IN THE FEDERAL RAILROAD ADMINISTRATION.—

“(1) REVIEW.—The Administrator of the Federal Railroad Administration (referred to in this subsection as the ‘FRA Administrator’), in consultation with the Administrator of the Federal Transit Administration, shall conduct a review of existing reporting and paperwork requirements in the Federal Railroad Administration to determine if any such requirements are duplicative or unnecessary.

“(2) ELIMINATION OF CERTAIN REQUIREMENTS.—If the FRA Administrator determines, as a result of the review conducted pursuant to paragraph (1), that any reporting or paperwork requirement that is not statutorily required is duplicative or unnecessary, the FRA Administrator, after consultation with the Administrator of the Federal Transit Administration, shall terminate such requirement.

“(3) REPORT.—Not later than 1 year after the date of enactment of this Act [Nov. 15, 2021], the FRA Administrator shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that—

“(A) identifies all of the reporting or paperwork requirements that were terminated pursuant to paragraph (2); and

“(B) identifies any statutory reporting or paperwork requirements that are duplicative or unnecessary and should be repealed.”

SHARED-USE STUDY

Pub. L. 114-94, div. A, title XI, § 11311, Dec. 4, 2015, 129 Stat. 1670, as amended by Pub. L. 117-58, div. B, title I, § 21301(j)(4)(C), Nov. 15, 2021, 135 Stat. 693, provided that:

“(a) IN GENERAL.—Not later than 3 years after the date of enactment of this Act [Dec. 4, 2015], the Secretary [of Transportation], in consultation with Am-

trak, commuter rail passenger transportation authorities, other railroad carriers, railroad carriers that own rail infrastructure over which both passenger and freight trains operate, States, the Surface Transportation Board, the Northeast Corridor Commission established under section 24905 of title 49, United States Code, the State-Supported Route Committee established under section 24712 of such title, and groups representing rail passengers and customers, as appropriate, shall complete a study that evaluates—

“(1) the shared use of right-of-way by passenger and freight rail systems; and

“(2) the operational, institutional, and legal structures that would best support improvements to the systems referred to in paragraph (1).

“(b) AREAS OF STUDY.—In conducting the study under subsection (a), the Secretary shall evaluate—

“(1) the access and use of railroad right-of-way by a rail carrier that does not own the right-of-way, such as passenger rail services that operate over privately-owned right-of-way, including an analysis of—

“(A) access agreements;

“(B) costs of access; and

“(C) the resolution of disputes relating to such access or costs;

“(2) the effectiveness of existing contractual, statutory, and regulatory mechanisms for establishing, measuring, and enforcing train performance standards, including—

“(A) the manner in which passenger train delays are recorded;

“(B) the assignment of responsibility for such delays; and

“(C) the use of incentives and penalties for performance;

“(3) the strengths and weaknesses of the existing mechanisms described in paragraph (2) and possible approaches to address the weaknesses;

“(4) mechanisms for measuring and maintaining public benefits resulting from publicly funded freight or passenger rail improvements, including improvements directed towards shared-use right-of-way by passenger and freight rail;

“(5) approaches to operations, capacity, and cost estimation modeling that—

“(A) allow for transparent decisionmaking; and

“(B) protect the proprietary interests of all parties;

“(6) liability requirements and arrangements, including—

“(A) whether to expand statutory liability limits to additional parties;

“(B) whether to revise the current statutory liability limits;

“(C) whether current insurance levels of passenger rail operators are adequate and whether to establish minimum insurance requirements for such passenger rail operators; and

“(D) whether to establish alternative insurance models, including other models administered by the Federal Government;

“(7) the effect on rail passenger services, operations, liability limits, and insurance levels of the assertion of sovereign immunity by a State; and

“(8) other issues identified by the Secretary.

“(c) REPORT.—Not later than 60 days after the study under subsection (a) is complete, the Secretary shall submit 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 that includes—

“(1) the results of the study; and

“(2) any recommendations for further action, including any legislative proposals consistent with such recommendations.

“(d) IMPLEMENTATION.—The Secretary shall integrate, as appropriate, the recommendations submitted under subsection (c) into the financial assistance programs under subtitle V of title 49, United States Code.”

RAILROAD SAFETY STRATEGY

Pub. L. 110-432, div. A, title I, § 102, Oct. 16, 2008, 122 Stat. 4852, as amended by Pub. L. 114-94, div. A, title

XI, §11316(j)(3), Dec. 4, 2015, 129 Stat. 1677, 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 and other failures of such infrastructure.

“(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 Transportation 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

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
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.

Editorial Notes**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.”

Statutory Notes and Related Subsidiaries**DEFINITIONS APPLICABLE TO DIVISION A OF PUB. L. 110-432**

Pub. L. 110-432, div. A, §2(a), Oct. 16, 2008, 122 Stat. 4849, as amended by Pub. L. 114-94, div. A, title XI, §11316(j)(2), Dec. 4, 2015, 129 Stat. 1677, 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**.—

(1) **IN GENERAL**.—The Secretary of Transportation may waive, or suspend the requirement to comply with, any part of a regulation prescribed or an order issued under this chapter if such waiver or suspension is in the public interest and consistent with railroad safety.

(2) **NOTICE REQUIRED**.—The Secretary shall—

(A) provide timely public notice of any request for a waiver under this subsection or for a suspension under subpart E of part 211 of title 49, Code of Federal Regulations, or successor regulations;

(B) make available the application for such waiver or suspension and any nonconfidential underlying data to interested parties;

(C) provide the public with notice and a reasonable opportunity to comment on a proposed waiver or suspension under this subsection before making a final decision; and

(D) publish on a publicly accessible website the reasons for granting each such waiver or suspension.

(3) **INFORMATION PROTECTION**.—Nothing in this subsection may be construed to require the release of information protected by law from public disclosure.

(4) **RULEMAKING**.—

(A) **IN GENERAL**.—Not later than 1 year after the first day on which a waiver under

this subsection or a suspension under subpart E of part 211 of title 49, Code of Federal Regulations, or successor regulations, has been in continuous effect for a 6-year period, the Secretary shall complete a review and analysis of such waiver or suspension to determine whether issuing a rule that is consistent with the waiver is—

- (i) in the public interest; and
- (ii) consistent with railroad safety.

(B) **FACTORS.**—In conducting the review and analysis under subparagraph (A), the Secretary shall consider—

- (i) the relevant safety record under the waiver or suspension;
- (ii) the likelihood that other entities would have similar safety outcomes;
- (iii) the materials submitted in the applications, including any comments regarding such materials; and
- (iv) related rulemaking activity.

(C) **NOTICE AND COMMENT.**—

(i) **IN GENERAL.**—The Secretary shall publish the review and analysis required under this paragraph in the Federal Register, which shall include a summary of the data collected and all relevant underlying data, if the Secretary decides not to initiate a regulatory update under subparagraph (D).

(ii) **NOTICE OF PROPOSED RULEMAKING.**—The review and analysis under this paragraph shall be included as part of the notice of proposed rulemaking if the Secretary initiates a regulatory update under subparagraph (D).

(D) **REGULATORY UPDATE.**—The Secretary may initiate a rulemaking to incorporate relevant aspects of a waiver under this subsection or a suspension under subpart E of part 211 of title 49, Code of Federal Regulations, or successor regulations, into the relevant regulation, to the extent the Secretary considers appropriate.

(5) **RULE OF CONSTRUCTION.**—Nothing in this subsection may be construed to delay any waiver granted pursuant to this subsection that is in the public interest and consistent with railroad safety.

(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.

(2) **PERIOD OF WAIVER.**—A waiver under this subsection may be issued for a period of not more than 60 days and may be renewed upon application to the Secretary only after notice and an opportunity for a hearing on the waiver. The Secretary shall immediately revoke the waiver if continuation of the waiver would not be consistent with the goals and objectives of this part.

(3) **STATEMENT OF REASONS.**—The Secretary shall state in the decision issued under this subsection the reasons for granting the waiver.

(4) **CONSULTATION.**—In granting a waiver under this subsection, the Secretary shall consult and coordinate with other Federal agencies, as appropriate, for matters that may impact such agencies.

(5) **EMERGENCY SITUATION; EMERGENCY EVENT.**—In this subsection, the terms “emergency situation” and “emergency event” mean a natural or manmade disaster, such as a hurricane, flood, earthquake, mudslide, forest fire, snowstorm, terrorist act, biological outbreak, release of a dangerous radiological, chemical, explosive, or biological material, or a war-related activity, that poses a risk of death, serious illness, severe injury, or substantial property damage. The disaster may be local, regional, or national in scope.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 863; Pub. L. 103–440, title II, §217, Nov. 2, 1994, 108 Stat. 4624; Pub. L. 107–296, title XVII, §1710(b), Nov. 25, 2002, 116 Stat. 2319; Pub. L. 110–432, div. A, title III, §308, Oct. 16, 2008, 122 Stat. 4881; Pub. L. 117–58, div. B, title II, §22411, Nov. 15, 2021, 135 Stat. 742.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
20103(a)	45:431(a) (1st sentence cl. (1)).	Oct. 16, 1970, Pub. L. 91–458, §202(a) (1st sentence cl. (1)), (b), (c), 84 Stat. 971.
20103(b)	45:431(d) (21st–last words).	Oct. 16, 1970, Pub. L. 91–458, §202(d), 84 Stat. 971; re-stated July 8, 1976, Pub. L. 94–348, §5(a), 90 Stat. 819.
20103(c)	45:431(d) (1st–20th words).	
20103(d)	45:431(c).	
20103(e)	45:431(b).	

In this part, the word “rule” is omitted as being synonymous with “regulation”. The word “standard” is omitted as being included in “regulation”.

In subsection (a), the words “(hereafter in this subchapter referred to as the ‘Secretary’)” in 45:431(a) (1st sentence cl. (1)) are omitted as surplus because the complete name of the Secretary of Transportation is used the first time the term appears in a section.

In subsection (b), the words “within 180 days after July 8, 1976” are omitted as expired. The word “pre-

scribe” is substituted for “take such action as may be necessary to develop and publish” for consistency in the revised title and with other titles of the United States Code and to eliminate unnecessary words.

In subsection (d), the words “after hearing in accordance with subsection (b) of this section” are omitted as surplus because of the language restated in subsection (e) of this section.

Editorial Notes

AMENDMENTS

2021—Subsec. (d). Pub. L. 117–58 amended subsec. (d) generally. Prior to amendment, text read as follows: “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.”

2008—Subsec. (d). Pub. L. 110–432, § 308(1), substituted “Nonemergency Waivers” for “Waivers” in heading.

Subsec. (e). Pub. L. 110–432, § 308(2), added subsec. (e) and struck out former subsec. (e). Prior to amendment, text read as follows: “The Secretary shall conduct a hearing as provided by section 553 of title 5 when prescribing a regulation or issuing an order under this chapter, including a regulation or order establishing, amending, or waiving compliance with a railroad safety regulation prescribed or order issued under this chapter. An opportunity for an oral presentation shall be provided.”

Subsec. (g). Pub. L. 110–432, § 308(3), added subsec. (g). 2002—Subsec. (a). Pub. L. 107–296 inserted at end “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.”

1994—Subsec. (f). Pub. L. 103–440 added subsec. (f).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107–296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

REGULATIONS

Pub. L. 103–272, § 4(t), July 5, 1994, 108 Stat. 1372, provided that:

“(1) Not later than March 3, 1995, the Secretary of Transportation shall complete a regulatory proceeding to consider prescribing regulations to improve the safety and working conditions of locomotive cabs. The proceeding shall assess—

“(A) the adequacy of Locomotive Crashworthiness Requirements Standard S–580, or any successor standard, adopted by the Association of American Railroads in 1989 in improving the safety of locomotive cabs; and

“(B) the extent to which environmental, sanitary, and other working conditions in locomotive cabs affect productivity, health, and the safe operation of locomotives.

“(2) SUPPORTING RESEARCH AND ANALYSIS.—In support of the proceeding required under paragraph (1) of this subsection, the Secretary shall conduct research and analysis, including computer modeling and full-scale crash testing, as appropriate, to consider—

“(A) the costs and benefits associated with equipping locomotives with—

“(i) braced collision posts;

“(ii) rollover protection devices;

“(iii) deflection plates;

“(iv) shatterproof windows;

“(v) readily accessible crash refuges;

“(vi) uniform sill heights;

“(vii) anticleimbers, or other equipment designed to prevent overrides resulting from head-on locomotive collisions;

“(viii) equipment to deter post-collision entry of flammable liquids into locomotive cabs;

“(ix) any other devices intended to provide crash protection for occupants of locomotive cabs; and

“(x) functioning and regularly maintained sanitary facilities; and

“(B) the effects on train crews of the presence of asbestos in locomotive components.

“(3) REPORT.—If, on the basis of the proceeding required under paragraph (1) of this subsection, the Secretary decides not to prescribe regulations, the Secretary shall report to Congress on the reasons for that decision.”

RAILROAD POINT OF CONTACT FOR PUBLIC SAFETY ISSUES

Pub. L. 117–58, div. B, title II, § 22426, Nov. 15, 2021, 135 Stat. 756, provided that: “All railroads shall—

“(1) provide railroad contact information for public safety issues, including a telephone number, to the relevant Federal, State, and local oversight agencies; and

“(2) post the information described in paragraph (1) on a publicly accessible website.”

REAL-TIME EMERGENCY RESPONSE INFORMATION

Pub. L. 114–94, div. A, title VII, § 7302, Dec. 4, 2015, 129 Stat. 1594, as amended by Pub. L. 117–58, div. B, title VI, § 26003, Nov. 15, 2021, 135 Stat. 883, provided that:

“(a) IN GENERAL.—Not later than December 5, 2022, the Secretary [of Transportation], in consultation with appropriate Federal agencies, shall issue regulations that—

“(1) require a Class I railroad transporting hazardous materials—

“(A) to generate accurate, real-time, and electronic train consist information, including—

“(i) the identity, quantity, and location of hazardous materials on a train;

“(ii) the point of origin and destination of the train;

“(iii) any emergency response information or resources required by the Secretary; and

“(iv) an emergency response point of contact designated by the Class I railroad; and

“(B) to provide the electronic train consist information described in subparagraph (A) to authorized State and local first responders, emergency response officials, and law enforcement personnel that are involved in the response to, or investigation of, an accident, incident, or public health or safety emergency involving the rail transportation of hazardous materials;

“(2) require each Class I railroad to provide advanced notification and information on high-hazard flammable trains to each State emergency response commission, consistent with the notification content requirements in Emergency Order Docket No. DOT–OST–2014–0067, including—

“(A) a reasonable estimate of the number of implicated trains that are expected to travel, per week, through each county within the applicable State;

“(B) updates to such estimate prior to making any material changes to any volumes or frequencies of trains traveling through a county;

“(C) identification and a description of the Class 3 flammable liquid being transported on such trains;

“(D) applicable emergency response information, as required by regulation;

“(E) identification of the routes over which such liquid will be transported; and

“(F) a point of contact at the Class I railroad responsible for serving as the point of contact for State emergency response centers and local emergency responders related to the Class I railroad’s transportation of such liquid.

“(3) require each applicable State emergency response commission to provide to a political subdivi-

sion of a State, or public agency responsible for emergency response or law enforcement, upon request of the political subdivision or public agency, the information the commission receives from a Class I railroad pursuant to paragraph (2), including, for any such political subdivision or public agency responsible for emergency response or law enforcement that makes an initial request for such information, any updates received by the State emergency response commission.

“(4) prohibit any Class I railroad, employee, or agent from withholding, or causing to be withheld, the train consist information from first responders, emergency response officials, and law enforcement personnel described in paragraph (2) in the event of an incident, accident, or public health or safety emergency involving the rail transportation of hazardous materials;

“(5) establish security and confidentiality protections, including protections from the public release of proprietary information or security-sensitive information, to prevent the release to unauthorized persons any electronic train consist information or advanced notification or information provided by Class I railroads under this section; and

“(6) allow each Class I railroad to enter into a memorandum of understanding with any Class II railroad or Class III railroad that operates trains over the Class I railroad’s line to incorporate the Class II railroad or Class III railroad’s train consist information within the existing framework described in paragraph (1).

“(b) DEFINITIONS.—In this section:

“(1) CLASS I RAILROAD; CLASS II RAILROAD; CLASS III RAILROAD.—The terms ‘Class I railroad’, ‘Class II railroad’, and ‘Class III railroad’ have the meaning given those terms in section 20102 of title 49, United States Code.

“(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) HAZARDOUS MATERIAL.—The term ‘hazardous material’ means a substance or material the Secretary designates as hazardous under section 5103 of title 49, United States Code.

“(4) HIGH-HAZARD FLAMMABLE TRAIN.—The term ‘high-hazard flammable train’ means a single train transporting 20 or more tank cars loaded with a Class 3 flammable liquid in a continuous block or a single train transporting 35 or more tank cars loaded with a Class 3 flammable liquid throughout the train consist.

“(5) TRAIN CONSIST.—The term ‘train consist’ includes, with regard to a specific train, the number of rail cars and the commodity transported by each rail car.

“(c) SAVINGS CLAUSE.—Nothing in this section may be construed to prohibit a Class I railroad from voluntarily entering into a memorandum of understanding with a State emergency response commission or an entity representing or including first responders, emergency response officials, and law enforcement personnel.”

ALERTERS

Pub. L. 114-94, div. A, title XI, §11407, Dec. 4, 2015, 129 Stat. 1684, provided that:

“(a) IN GENERAL.—The Secretary [of Transportation] shall promulgate a rule to require a working alerter in the controlling locomotive of each passenger train in intercity rail passenger transportation (as defined in section 24102 of title 49, United States Code) or commuter rail passenger transportation (as defined in section 24102 of title 49, United States Code).

“(b) RULEMAKING.—

“(1) IN GENERAL.—The Secretary may promulgate a rule to specify the essential functionalities of a working alerter, including the manner in which the alerter can be reset.

“(2) ALTERNATE PRACTICE OR TECHNOLOGY.—The Secretary may require or allow a technology or practice in lieu of a working alerter if the Secretary determines that the technology or practice would achieve an equivalent or greater level of safety in enhancing or ensuring appropriate locomotive control.”

LOCOMOTIVE CAB STUDIES

Pub. L. 110-432, div. A, title IV, §405, Oct. 16, 2008, 122 Stat. 4885, provided that:

“(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [Oct. 16, 2008], the Secretary, through the Railroad Safety Advisory Committee if the Secretary makes such a request, shall complete a study on the safety impact of the use of personal electronic devices, including cell phones, video games, and other distracting devices, by safety-related railroad employees (as defined in section 20102(4) of title 49, United States Code), during the performance of such employees’ duties. The study shall consider the prevalence of the use of such devices.

“(b) LOCOMOTIVE CAB ENVIRONMENT.—The Secretary may also study other elements of the locomotive cab environment and their effect on an employee’s health and safety.

“(c) REPORT.—Not later than 6 months after the completion of any study under this section, the Secretary shall issue a report on the study to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

“(d) AUTHORITY.—Based on the conclusions of the study required under (a), the Secretary of Transportation may prohibit the use of personal electronic devices, such as cell phones, video games, or other electronic devices that may distract employees from safely performing their duties, unless those devices are being used according to railroad operating rules or for other work purposes. Based on the conclusions of other studies conducted under subsection (b), the Secretary may prescribe regulations to improve elements of the cab environment to protect an employee’s health and safety.”

[For definitions of “Secretary” and “railroad”, as used in section 405 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.]

TUNNEL INFORMATION

Pub. L. 110-432, div. A, title IV, §414, Oct. 16, 2008, 122 Stat. 4889, as amended by Pub. L. 114-94, div. A, title XI, §11316(j)(7), Dec. 4, 2015, 129 Stat. 1678, provided that: “Not later than 120 days after the date of enactment of this Act [Oct. 16, 2008], each railroad carrier shall, with respect to each of its tunnels which—

“(1) are longer than 1000 feet and located under a city with a population of 400,000 or greater; or

“(2) carry 5 or more scheduled passenger trains per day, or 500 or more carloads of poison- or toxic-by-inhalation hazardous materials (as defined in sections 171.8, 173.115, and 173.132 of title 49, Code of Federal Regulations) per year,

maintain, for at least two years, historical documentation of structural inspection and maintenance activities for such tunnels, including information on the methods of ingress and egress into and out of the tunnel, the types of cargos typically transported through the tunnel, and schematics or blueprints for the tunnel, when available. Upon request, a railroad carrier shall provide periodic briefings on such information to the governments of the local jurisdiction in which the tunnel is located, including updates whenever a repair or rehabilitation project substantially alters the methods of ingress and egress. Such governments shall use appropriate means to protect and restrict the distribution of any security sensitive information (as defined in section 1520.5 of title 49, Code of Federal Regulations) provided by the railroad carrier under this section, consistent with national security interests.”

[For definition of “railroad carrier”, as used in section 414 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.]

RAILROAD BRIDGE SAFETY ASSURANCE

Pub. L. 110-432, div. A, title IV, § 417, Oct. 16, 2008, 122 Stat. 4890, as amended by Pub. L. 114-94, div. A, title XI, § 11405, Dec. 4, 2015, 129 Stat. 1682, provided that:

“(a) IN GENERAL.—Not later than 12 months after the date of enactment of this Act [Oct. 16, 2008], the Secretary shall promulgate a regulation requiring owners of track carried on one or more railroad bridges to adopt a bridge safety management program to prevent the deterioration of railroad bridges and reduce the risk of human casualties, environmental damage, and disruption to the Nation’s railroad transportation system that would result from a catastrophic bridge failure.

“(b) REQUIREMENTS.—The regulations shall, at a minimum, require each track owner to [sic]—

“(1) to develop and maintain an accurate inventory of its railroad bridges, which shall identify the location of each bridge, its configuration, type of construction, number of spans, span lengths, and all other information necessary to provide for the safe management of the bridges;

“(2) to ensure that a professional engineer competent in the field of railroad bridge engineering, or a qualified person under the supervision of the track owner, determines bridge capacity;

“(3) to maintain, and update as appropriate, a record of the safe capacity of each bridge which carries its track and, if available, maintain the original design documents of each bridge and a documentation of all repairs, modifications, and inspections of the bridge;

“(4) to develop, maintain, and enforce a written procedure that will ensure that its bridges are not loaded beyond their capacities;

“(5) to conduct regular comprehensive inspections of each bridge, at least once every year, and maintain records of those inspections that include the date on which the inspection was performed, the precise identification of the bridge inspected, the items inspected, an accurate description of the condition of those items, and a narrative of any inspection item that is found by the inspector to be a potential problem;

“(6) to ensure that the level of detail and the inspection procedures are appropriate to the configuration of the bridge, conditions found during previous inspections, and the nature of the railroad traffic moved over the bridge, including car weights, train frequency and length, levels of passenger and hazardous materials traffic, and vulnerability of the bridge to damage;

“(7) to ensure that an engineer who is competent in the field of railroad bridge engineering—

“(A) is responsible for the development of all inspection procedures;

“(B) reviews all inspection reports; and

“(C) determines whether bridges are being inspected according to the applicable procedures and frequency, and reviews any items noted by an inspector as exceptions; and

“(8) to designate qualified bridge inspectors or maintenance personnel to authorize the operation of trains on bridges following repairs, damage, or indications of potential structural problems.

“(c) USE OF BRIDGE MANAGEMENT PROGRAMS REQUIRED.—The Secretary shall instruct bridge experts to obtain copies of the most recent bridge management programs of each railroad within the expert’s areas of responsibility, and require that experts use those programs when conducting bridge observations.

“(d) REVIEW OF DATA.—

“(1) IN GENERAL.—The Secretary shall establish a program to periodically review bridge inspection and maintenance data from railroad carrier bridge inspec-

tors and Federal Railroad Administration bridge experts.

“(2) AVAILABILITY OF BRIDGE CONDITION.—

“(A) IN GENERAL.—A State or political subdivision of a State may file a request with the Secretary for a public version of a bridge inspection report generated under subsection (b)(5) for a bridge located in such State or political subdivision’s jurisdiction.

“(B) PUBLIC VERSION OF REPORT.—If the Secretary determines that the request is reasonable, the Secretary shall require a railroad to submit a public version of the most recent bridge inspection report, such as a summary form, for a bridge subject to a request under subparagraph (A). The public version of a bridge inspection report shall include the date of last inspection, length of bridge, location of bridge, type of bridge, type of structure, feature crossed by bridge, and railroad contact information, along with a general statement on the condition of the bridge.

“(C) PROVISION OF REPORT.—The Secretary shall provide to a State or political subdivision of a State a public version of a bridge inspection report submitted under subparagraph (B).

“(D) TECHNICAL ASSISTANCE.—The Secretary, upon the reasonable request of State or political subdivision of a State, shall provide technical assistance to such State or political subdivision of a State to facilitate the understanding of a bridge inspection report.”

[For definitions of “Secretary”, “railroad”, and “railroad carrier”, as used in section 417 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.]

§ 20104. Emergency authority

(a) ORDERING RESTRICTIONS AND PROHIBITIONS.—(1) If, through testing, inspection, investigation, or research carried out under this chapter, the Secretary of Transportation decides that an unsafe condition or practice, or a combination of unsafe conditions and practices, causes an emergency situation involving a hazard of death, personal injury, or significant harm to the environment, the Secretary immediately may order restrictions and prohibitions, without regard to section 20103(e) of this title, that may be necessary to abate the situation.

(2) The order shall describe the condition or practice, or a combination of conditions and practices, that causes the emergency situation and prescribe standards and procedures for obtaining relief from the order. This paragraph does not affect the Secretary’s discretion under this section to maintain the order in effect for as long as the emergency situation exists.

(b) REVIEW OF ORDERS.—After issuing an order under this section, the Secretary shall provide an opportunity for review of the order under section 554 of title 5. If a petition for review is filed and the review is not completed by the end of the 30-day period beginning on the date the order was issued, the order stops being effective at the end of that period unless the Secretary decides in writing that the emergency situation still exists.

(c) CIVIL ACTIONS TO COMPEL ISSUANCE OF ORDERS.—An employee of a railroad carrier engaged in interstate or foreign commerce who may be exposed to imminent physical injury during that employment because of the Secretary’s failure, without any reasonable basis, to issue an order under subsection (a) of this section, or the employee’s authorized representa-

tive, may bring a civil action against the Secretary in a district court of the United States to compel the Secretary to issue an order. The action must be brought in the judicial district in which the emergency situation is alleged to exist, in which that employing carrier has its principal executive office, or for the District of Columbia. The Secretary's failure to issue an order under subsection (a) of this section may be reviewed only under section 706 of title 5.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 864; Pub. L. 110-432, div. A, title III, §304, Oct. 16, 2008, 122 Stat. 4879.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
20104(a)	45:432(a), (d).	Oct. 16, 1970, Pub. L. 91-458, §203, 84 Stat. 972; restated Oct. 10, 1980, Pub. L. 96-423, §3, 94 Stat. 1811.
20104(b)	45:432(b), (c).	
20104(c)	45:432(e).	

In subsection (a)(1), the words “or both” are omitted as surplus. The words “immediately may order restrictions and prohibitions . . . that may be necessary to abate the situation” are substituted for “may immediately issue an order . . . imposing such restrictions or prohibitions as may be necessary to bring about the abatement of such emergency situation” to eliminate unnecessary words.

In subsection (a)(2), the words “or a combination of conditions and practices” are added for consistency with paragraph (1). The words “(as determined by the Secretary)” are omitted as surplus. The last sentence is substituted for 45:432(d) (last sentence) for clarity.

In subsection (b), the words “the Secretary” are added for clarity.

In subsection (c), the words “issue an order” are substituted for “seek relief” for consistency in this section. The words “The action must be brought in the judicial district” are substituted for “for the judicial district” for consistency in the revised title.

Editorial Notes

AMENDMENTS

2008—Subsec. (a)(1). Pub. L. 110-432 substituted “death, personal injury, or significant harm to the environment” for “death or personal injury”.

§ 20105. State participation

(a) INVESTIGATIVE AND SURVEILLANCE ACTIVITIES.—The Secretary concerned may prescribe investigative and surveillance activities necessary to enforce the safety regulations prescribed and orders issued by the Secretary¹ that apply to railroad equipment, facilities, rolling stock, and operations in a State. The State may participate in those activities when the safety practices for railroad equipment, facilities, rolling stock, and operations in the State are regulated by a State authority and the authority submits to the Secretary concerned an annual certification as provided in subsection (b) of this section.

(b) ANNUAL CERTIFICATION.—(1) A State authority's annual certification must include—

(A) a certification that the authority—

(i) has regulatory jurisdiction over the safety practices for railroad equipment, fa-

cilities, rolling stock, and operations in the State;

(ii) was given a copy of each safety regulation prescribed and order issued by the Secretary concerned, that applies to the equipment, facilities, rolling stock, or operations, as of the date of certification; and

(iii) is conducting the investigative and surveillance activities prescribed by the Secretary concerned under subsection (a) of this section; and

(B) a report, in the form the Secretary concerned prescribes by regulation, that includes—

(i) the name and address of each railroad carrier subject to the safety jurisdiction of the authority;

(ii) each accident or incident reported during the prior 12 months by a railroad carrier involving a fatality, personal injury requiring hospitalization, or property damage of more than \$750 (or a higher amount prescribed by the Secretary concerned), and a summary of the authority's investigation of the cause and circumstances surrounding the accident or incident;

(iii) the record maintenance, reporting, and inspection practices conducted by the authority to aid the Secretary concerned in enforcing railroad safety regulations prescribed and orders issued by the Secretary concerned, including the number of inspections made of railroad equipment, facilities, rolling stock, and operations by the authority during the prior 12 months; and

(iv) other information the Secretary concerned requires.

(2) An annual certification applies to a safety regulation prescribed or order issued after the date of the certification only if the State authority submits an appropriate certification to provide the necessary investigative and surveillance activities.

(3) If, after receipt of an annual certification, the Secretary concerned decides the State authority is not complying satisfactorily with the investigative and surveillance activities prescribed under subsection (a) of this section, the Secretary concerned may reject any part of the certification or take other appropriate action to achieve adequate enforcement. The Secretary concerned must give the authority notice and an opportunity for a hearing before taking action under this paragraph. When the Secretary concerned gives notice, the burden of proof is on the authority to show that it is complying satisfactorily with the investigative and surveillance activities prescribed by the Secretary concerned.

(c) AGREEMENT WHEN CERTIFICATION NOT RECEIVED.—(1) If the Secretary concerned does not receive an annual certification under subsection (a) of this section related to any railroad equipment, facility, rolling stock, or operation, the Secretary concerned may make an agreement with a State authority for the authority to provide any part of the investigative and surveillance activities prescribed by the Secretary concerned as necessary to enforce the safety regulations and orders applicable to the equipment, facility, rolling stock, or operation.

¹ So in original. Probably should be “Secretary concerned”.

(2) The Secretary concerned may terminate any part of an agreement made under this subsection on finding that the authority has not provided every part of the investigative and surveillance activities to which the agreement relates. The Secretary concerned must give the authority notice and an opportunity for a hearing before making such a finding. The finding and termination shall be published in the Federal Register and may not become effective for at least 15 days after the date of publication.

(d) AGREEMENT FOR INVESTIGATIVE AND SURVEILLANCE ACTIVITIES.—In addition to providing for State participation under this section, the Secretary concerned may make an agreement with a State to provide investigative and surveillance activities related to the duties under chapters 203–213 of this title (in the case of the Secretary of Transportation) and duties under section 114 of this title (in the case of the Secretary of Homeland Security).

(e) PAYMENT.—On application by a State authority that has submitted a certification under subsections (a) and (b) of this section or made an agreement under subsection (c) or (d) of this section, the Secretary concerned shall pay not more than 50 percent of the cost of the personnel, equipment, and activities of the authority needed, during the next fiscal year, to carry out a safety program under the certification or agreement. However, the Secretary concerned may pay an authority only when the authority assures the Secretary concerned that it will provide the remaining cost of the safety program and that the total State money expended for the safety program, excluding grants of the United States Government, will be at least as much as the average amount expended for the fiscal years that ended June 30, 1969, and June 30, 1970.

(f) MONITORING.—The Secretary concerned may monitor State investigative and surveillance practices and carry out other inspections and investigations necessary to help enforce this chapter (in the case of the Secretary of Transportation) and duties under section 114 of this title (in the case of the Secretary of Homeland Security).

(g) DEFINITIONS.—In this section—

- (1) the term “safety” includes security; and
- (2) the term “Secretary concerned” means—

(A) the Secretary of Transportation, with respect to railroad safety matters concerning such Secretary under laws administered by that Secretary; and

(B) the Secretary of Homeland Security, with respect to railroad safety matters concerning such Secretary under laws administered by that Secretary.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 864; Pub. L. 107–296, title XVII, §1710(a), Nov. 25, 2002, 116 Stat. 2319.)

HISTORICAL AND REVISION NOTES—CONTINUED

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
20105(b) (1)(A).	45:435(a) (1st sentence related to contents of certification).	
20105(b) (1)(B).	45:435(b) (1st sentence).	
20105(b)(2) ..	45:435(f).	
20105(b)(3) ..	45:435(b) (2d-last sentences).	
20105(c)	45:435(c).	Oct. 16, 1970, Pub. L. 91–458, §206(c), (e), 84 Stat. 973, 974.
20105(d)	45:435(g).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §206(g); added Oct. 10, 1980, Pub. L. 96–423, §4(a), 94 Stat. 1812.
20105(e)	45:435(d).	Oct. 16, 1970, Pub. L. 91–458, §206(d), 84 Stat. 974; Oct. 10, 1980, Pub. L. 96–423, §4(b), 94 Stat. 1812.
20105(f)	45:435(e).	

In subsection (a), the first sentence is added for clarity.

In subsection (b)(1)(A)(iii), the words “as necessary for the enforcement by him of each rule, regulation, order, and standard referred to in paragraph (2) of this subsection, as interpreted by the Secretary” are omitted as surplus.

In subsection (b)(1)(B)(i) and (ii), the words “railroad carrier” are substituted for “railroad” because of the definition of “railroad carrier” in section 20102 of the revised title.

In subsection (b)(1)(B)(iii), the words “a detail of” are omitted as surplus.

In subsection (b)(3), the text of 45:435(b) (2d sentence) and the words “as he deems”, “reasonable”, and “with respect to such safety rules, regulations, orders, and standards” are omitted as surplus.

In subsection (c)(1), the word “enforce” is substituted for “obtain compliance with” for clarity and consistency in this section.

In subsection (e), the words “out of funds appropriated pursuant to this subchapter or otherwise made available”, “reasonably”, and “satisfactory” are omitted as surplus. The words “will be at least as much as the average amount expended” are substituted for “will be maintained at a level which does not fall below the average level of such expenditures” for clarity and to eliminate unnecessary words.

Editorial Notes

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–296, §1710(a)(2), substituted “the Secretary concerned” for “the Secretary” in second sentence.

Pub. L. 107–296, §1710(a)(1), substituted “The Secretary concerned” for “The Secretary of Transportation” in first sentence.

Subsecs. (b), (c). Pub. L. 107–296, §1710(a)(2), substituted “Secretary concerned” for “Secretary” wherever appearing.

Subsec. (d). Pub. L. 107–296, §1710(a)(2), (3), substituted “Secretary concerned” for “Secretary” and “duties under chapters 203–213 of this title (in the case of the Secretary of Transportation) and duties under section 114 of this title (in the case of the Secretary of Homeland Security)” for “Secretary’s duties under chapters 203–213 of this title”.

Subsec. (e). Pub. L. 107–296, §1710(a)(2), substituted “Secretary concerned” for “Secretary” wherever appearing.

Subsec. (f). Pub. L. 107–296, §1710(a)(2), (4), substituted “Secretary concerned” for “Secretary” and “chapter (in the case of the Secretary of Transportation) and duties under section 114 of this title (in the case of the Secretary of Homeland Security)” for “chapter”.

Subsec. (g). Pub. L. 107–296, §1710(a)(5), added subsec. (g).

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
20105(a)	45:435(a) (1st sentence related to authority for State participation).	Oct. 16, 1970, Pub. L. 91–458, §206(a) (1st sentence), (b), (f), 84 Stat. 972, 973, 974; Nov. 16, 1990, Pub. L. 101–615, §28(a)(1)–(3), (b), (c), 104 Stat. 3276, 3277.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107-296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

§ 20106. Preemption

(a) NATIONAL UNIFORMITY OF REGULATION.—(1) Laws, regulations, and orders related to railroad safety and laws, regulations, and orders related to railroad security shall be nationally uniform to the extent practicable.

(2) A State may adopt or continue in force a law, regulation, or order related to railroad safety or security until the Secretary of Transportation (with respect to railroad safety matters), or the Secretary of Homeland Security (with respect to railroad security matters), prescribes a regulation or issues an order covering the subject matter of the State requirement. A State may adopt or continue in force an additional or more stringent law, regulation, or order related to railroad safety or security when the law, regulation, or order—

(A) is necessary to eliminate or reduce an essentially local safety or security hazard;

(B) is not incompatible with a law, regulation, or order of the United States Government; and

(C) does not unreasonably burden interstate commerce.

(b) CLARIFICATION REGARDING STATE LAW CAUSES OF ACTION.—(1) Nothing in this section shall be construed to preempt an action under State law seeking damages for personal injury, death, or property damage alleging that a party—

(A) has failed to comply with the Federal standard of care established by a regulation or order issued by the Secretary of Transportation (with respect to railroad safety matters), or the Secretary of Homeland Security (with respect to railroad security matters), covering the subject matter as provided in subsection (a) of this section;

(B) has failed to comply with its own plan, rule, or standard that it created pursuant to a regulation or order issued by either of the Secretaries; or

(C) has failed to comply with a State law, regulation, or order that is not incompatible with subsection (a)(2).

(2) This subsection shall apply to all pending State law causes of action arising from events or activities occurring on or after January 18, 2002.

(c) JURISDICTION.—Nothing in this section creates a Federal cause of action on behalf of an injured party or confers Federal question jurisdiction for such State law causes of action.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 866; Pub. L. 107-296, title XVII, §1710(c), Nov. 25, 2002, 116 Stat. 2319; Pub. L. 110-53, title XV, §1528, Aug. 3, 2007, 121 Stat. 453.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
20106	45:434.	Oct. 16, 1970, Pub. L. 91-458, §205, 84 Stat. 972.

In this section, before clause (1), the words “The Congress declares that” are omitted as unnecessary. In clause (3), the word “unreasonably” is substituted for “undue” for consistency in the revised title and with other titles of the United States Code.

Editorial Notes

AMENDMENTS

2007—Pub. L. 110-53 amended section generally. Prior to amendment, text of section read as follows: “Laws, regulations, and orders related to railroad safety and laws, regulations, and orders related to railroad security shall be nationally uniform to the extent practicable. A State may adopt or continue in force a law, regulation, or order related to railroad safety or security until the Secretary of Transportation (with respect to railroad safety matters), or the Secretary of Homeland Security (with respect to railroad security matters), prescribes a regulation or issues an order covering the subject matter of the State requirement. A State may adopt or continue in force an additional or more stringent law, regulation, or order related to railroad safety or security when the law, regulation, or order—

“(1) is necessary to eliminate or reduce an essentially local safety or security hazard;

“(2) is not incompatible with a law, regulation, or order of the United States Government; and

“(3) does not unreasonably burden interstate commerce.”

2002—Pub. L. 107-296, §1710(c), in introductory provisions, in first sentence inserted “and laws, regulations, and orders related to railroad security” after “safety”, in second sentence substituted “Transportation (with respect to railroad safety matters), or the Secretary of Homeland Security (with respect to railroad security matters),” for “Transportation”, and in second and third sentences inserted “or security” after “order related to railroad safety”.

Par. (1). Pub. L. 107-296, §1710(c)(2), inserted “or security” after “safety”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107-296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

§ 20107. Inspection and investigation

(a) GENERAL.—To carry out this part, the Secretary of Transportation may take actions the Secretary considers necessary, including—

(1) conduct investigations, make reports, issue subpoenas, require the production of documents, take depositions, and prescribe record-keeping and reporting requirements; and

(2) delegate to a public entity or qualified person the inspection, examination, and testing of railroad equipment, facilities, rolling stock, operations, and persons.

(b) ENTRY AND INSPECTION.—In carrying out this part, an officer, employee, or agent of the Secretary, at reasonable times and in a reasonable way, may enter and inspect railroad equipment, facilities, rolling stock, operations, and relevant records. When requested, the officer,

employee, or agent shall display proper credentials. During an inspection, the officer, employee, or agent is an employee of the United States Government under chapter 171 of title 28.

(c) RAILROAD RADIO COMMUNICATIONS.—

(1) IN GENERAL.—To carry out the Secretary's responsibilities under this part and under chapter 51, the Secretary may authorize officers, employees, or agents of the Secretary to conduct, with or without making their presence known, the following activities in circumstances the Secretary finds to be reasonable:

(A) Intercepting a radio communication, with or without the consent of the sender or other receivers of the communication, but only where such communication is broadcast or transmitted over a radio frequency which is—

(i) authorized for use by one or more railroad carriers by the Federal Communications Commission; and

(ii) primarily used by such railroad carriers for communications in connection with railroad operations.

(B) Communicating the existence, contents, substance, purport, effect, or meaning of the communication, subject to the restrictions in paragraph (3).

(C) Receiving or assisting in receiving the communication (or any information therein contained).

(D) Disclosing the contents, substance, purport, effect, or meaning of the communication (or any part thereof of such communication) or using the communication (or any information contained therein), subject to the restrictions in paragraph (3), after having received the communication or acquired knowledge of the contents, substance, purport, effect, or meaning of the communication (or any part thereof).

(E) Recording the communication by any means, including writing and tape recording.

(2) ACCIDENT AND INCIDENT PREVENTION AND INVESTIGATION.—The Secretary, and officers, employees, and agents of the Department of Transportation authorized by the Secretary, may engage in the activities authorized by paragraph (1) for the purpose of accident and incident prevention and investigation.

(3) USE OF INFORMATION.—(A) Information obtained through activities authorized by paragraphs (1) and (2) shall not be admitted into evidence in any administrative or judicial proceeding except—

(i) in a prosecution of a felony under Federal or State criminal law; or

(ii) to impeach evidence offered by a party other than the Federal Government regarding the existence, electronic characteristics, content, substance, purport, effect, meaning, or timing of, or identity of parties to, a communication intercepted pursuant to paragraphs (1) and (2) in proceedings pursuant to section 5122, 5123, 20702(b), 20111, 20112, 20113, or 20114 of this title.

(B) If information obtained through activities set forth in paragraphs (1) and (2) is admitted into evidence for impeachment pur-

poses in accordance with subparagraph (A), the court, administrative law judge, or other officer before whom the proceeding is conducted may make such protective orders regarding the confidentiality or use of the information as may be appropriate in the circumstances to protect privacy and administer justice.

(C) No evidence shall be excluded in an administrative or judicial proceeding solely because the government would not have learned of the existence of or obtained such evidence but for the interception of information that is not admissible in such proceeding under subparagraph (A).

(D) Information obtained through activities set forth in paragraphs (1) and (2) shall not be subject to publication or disclosure, or search or review in connection therewith, under section 552 of title 5.

(E) Nothing in this subsection shall be construed to impair or otherwise affect the authority of the United States to intercept a communication, and collect, retain, analyze, use, and disseminate the information obtained thereby, under a provision of law other than this subsection.

(4) APPLICATION WITH OTHER LAW.—Section 705 of the Communications Act of 1934 (47 U.S.C. 605) and chapter 119 of title 18 shall not apply to conduct authorized by and pursuant to this subsection.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 866; Pub. L. 110-432, div. A, title III, §306, Oct. 16, 2008, 122 Stat. 4880.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
20107(a)	45:437(a) (1st sentence words before 9th and after 14th commas). 45:437(d)(1) (1st sentence).	Oct. 16, 1970, Pub. L. 91-458, §208(a) (1st sentence words before 9th and after 14th commas), 84 Stat. 974, 975. Oct. 16, 1970, Pub. L. 91-458, 84 Stat. 971, §208(d)(1) (1st sentence); added Oct. 10, 1980, Pub. L. 96-423, §6(b), 94 Stat. 1813.
20107(b)	45:437(b).	Oct. 16, 1970, Pub. L. 91-458, §208(b), 84 Stat. 975; re-stated Nov. 2, 1978, Pub. L. 95-574, §9, 92 Stat. 2462; Oct. 10, 1980, Pub. L. 96-423, §6(a), 94 Stat. 1813.

In subsection (a), before clause (1), the words "To carry out this part, the Secretary of Transportation may" are substituted for "In carrying out his functions under this subchapter, the Secretary is authorized to perform . . . to carry out the provisions of this subchapter" and "In carrying out the functions formerly vested in the Interstate Commerce Commission and transferred to the Secretary by section 1655(e)(1), (e)(2), and (e)(6)(A) of title 49, Appendix, the Secretary is authorized to perform any act authorized in subsection (a) of this section . . . to carry out such transferred functions" to eliminate unnecessary words. In clause (2), the word "entity" is substituted for "bodies" for consistency in the revised title and with other titles of the United States Code.

In subsection (b), the words "In carrying out this part" are substituted for "To carry out the Secretary's responsibilities under this subchapter and under the functions transferred by section 1655(e)(1), (e)(2), and (e)(6)(A) of title 49, Appendix" to eliminate unnecessary words. The word "way" is substituted for "manner" for consistency in the revised title and with other titles of the Code. The word "examine" is omitted as being in-

cluded in “inspect”. The word “considered” is omitted as surplus.

Editorial Notes

AMENDMENTS

2008—Subsec. (c). Pub. L. 110-432 added subsec. (c).

SAFETY INSPECTIONS IN MEXICO

Pub. L. 110-432, div. A, title IV, § 416, Oct. 16, 2008, 122 Stat. 4890, as amended by Pub. L. 114-94, div. A, title XI, § 11316(j)(8), Dec. 4, 2015, 129 Stat. 1678, provided that: “Mechanical and brake inspections of rail cars performed in Mexico shall not be treated as satisfying United States rail safety laws or regulations unless the Secretary certifies that—

“(1) such inspections are being performed under regulations and standards equivalent to those applicable in the United States;

“(2) the inspections are being performed by employees that have received training similar to the training received by similar railroad employees in the United States;

“(3) inspection records that are required to be available to the crewmembers on board the train, including air slips and blue cards, are maintained in both English and Spanish, and such records are available to the Federal Railroad Administration for review; and

“(4) the Federal Railroad Administration is permitted to perform onsite inspections for the purpose of ensuring compliance with the requirements of this section.”

[For definition of “railroad”, as used in section 416 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.]

§ 20108. Research, development, testing, and training

(a) GENERAL.—The Secretary of Transportation shall carry out, as necessary, research, development, testing, evaluation, and training for every area of railroad safety.

(b) CONTRACTS.—To carry out this part, the Secretary may make contracts for, and carry out, research, development, testing, evaluation, and training (particularly for those areas of railroad safety found to need prompt attention).

(c) AMOUNTS FROM NON-GOVERNMENT SOURCES FOR TRAINING SAFETY EMPLOYEES.—The Secretary may request, receive, and expend amounts received from non-United States Government sources for expenses incurred in training safety employees of private industry, State and local authorities, or other public authorities, except State rail safety inspectors participating in training under section 20105 of this title.

(d) FACILITIES.—The Secretary may erect, alter, and repair buildings and make other public improvements to carry out necessary railroad research, safety, and training activities at the Transportation Technology Center in Pueblo, Colorado.

(e) OFFSETTING COLLECTIONS.—The Secretary may collect fees or rents from facility users to offset appropriated amounts for the cost of providing facilities or research, development, testing, training, or other services, including long-term sustenance of the on-site physical plant.

(f) REVOLVING FUND.—Amounts appropriated to carry out subsection (d) and all fees and rents collected pursuant to subsection (e) shall be

credited to a revolving fund and remain available until expended. The Secretary may use such fees and rents for operation, maintenance, repair, or improvement of the Transportation Technology Center.

(g) LEASES AND CONTRACTS.—Notwithstanding section 1302 of title 40, the Secretary may lease to others or enter into contracts for terms of up to 20 years, for such consideration and subject to such terms and conditions as the Secretary determines to be in the best interests of the Government of the United States, for the operation, maintenance, repair, and improvement of the Transportation Technology Center.

(h) PROPERTY AND CASUALTY LOSS INSURANCE.—The Secretary may allow its lessees and contractors to purchase property and casualty loss insurance for its assets and activities at the Transportation Technology Center to mitigate the lessee's or contractor's risk associated with operating a facility.

(i) ENERGY PROJECTS.—Notwithstanding section 1341 of title 31, the Secretary may enter into contracts or agreements, or commit to obligations in connection with third-party contracts or agreements, including contingent liability for the purchase of electric power in connection with such contracts or agreements, for terms not to exceed 20 years, to enable the use of the land at the Transportation Technology Center for projects to produce energy from renewable sources.

(j) RAIL RESEARCH AND DEVELOPMENT CENTER OF EXCELLENCE.—

(1) CENTER OF EXCELLENCE.—The Secretary shall award grants to establish and maintain a center of excellence to advance research and development that improves the safety, efficiency, and reliability of passenger and freight rail transportation.

(2) ELIGIBILITY.—An institution of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)) or a consortium of nonprofit institutions of higher education shall be eligible to receive a grant from the center established pursuant to paragraph (1).

(3) SELECTION CRITERIA.—In awarding a grant under this subsection, the Secretary shall—

(A) give preference to applicants with strong past performance related to rail research, education, and workforce development activities;

(B) consider the extent to which the applicant would involve public and private sector passenger and freight railroad operators; and

(C) consider the regional and national impacts of the applicant's proposal.

(4) USE OF FUNDS.—Grant funds awarded pursuant to this subsection shall be used for basic and applied research, evaluation, education, workforce development, and training efforts related to safety, project delivery, efficiency, reliability, resiliency, and sustainability of urban commuter, intercity high-speed, and freight rail transportation, to include advances in rolling stock, advanced positive train control, human factors, rail infrastructure, shared corridors, grade crossing safety, inspection technology, remote sensing, rail systems maintenance, network resiliency,

operational reliability, energy efficiency, and other advanced technologies.

(5) **FEDERAL SHARE.**—The Federal share of a grant awarded under this subsection shall be 50 percent of the cost of establishing and operating the center of excellence and related research activities carried out by the grant recipient.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 867; Pub. L. 117–58, div. B, title II, §§22412, 22413, Nov. 15, 2021, 135 Stat. 743, 744.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
20108(a)	45:431(a) (1st sentence cl. (2)).	Oct. 16, 1970, Pub. L. 91–458, §§202(a) (1st sentence cl. (2)), 208(a) (1st sentence words before 3d comma and between 9th–14th commas), 84 Stat. 971, 974.
20108(b)	45:437(a) (1st sentence words before 3d comma and between 9th–14th commas). 45:437(d)(1) (1st sentence).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §208(d)(1) (1st sentence); added Oct. 10, 1980, Pub. L. 96–423, §6(b), 94 Stat. 1813.
20108(c)	45:444(a) (last sentence).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §214(a) (last 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.

In subsection (b), the words “To carry out this part, the Secretary may” are substituted for “In carrying out his functions under this subchapter, the Secretary is authorized to perform such acts including, but not limited to . . . as he deems necessary to carry out the provisions of this subchapter” and “In carrying out the functions formerly vested in the Interstate Commerce Commission and transferred to the Secretary by section 1655(e)(1), (e)(2), and (e)(6)(A) of title 49, Appendix, the Secretary is authorized to perform any act authorized in subsection (a) of this section that he considers necessary to carry out such transferred functions, including, but not limited to” to eliminate unnecessary words.

Editorial Notes

AMENDMENTS

2021—Subsecs. (d) to (i). Pub. L. 117–58, §22412, added subsecs. (d) to (i).

Subsec. (j). Pub. L. 117–58, §22413, added subsec. (j).

§ 20109. Employee protections

(a) **IN GENERAL.**—A railroad carrier engaged in interstate or foreign commerce, a contractor or a subcontractor of such a railroad carrier, or an officer or employee of such a railroad carrier, may not discharge, demote, suspend, reprimand, or in any other way discriminate against an employee if such discrimination is due, in whole or in part, to the employee’s lawful, good faith act done, or perceived by the employer to have been done or about to be done—

(1) to provide information, directly cause information to be provided, or otherwise di-

rectly assist in any investigation regarding any conduct which the employee reasonably believes constitutes a violation of any Federal law, rule, or regulation relating to railroad safety or security, or gross fraud, waste, or abuse of Federal grants or other public funds intended to be used for railroad safety or security, if the information or assistance is provided to or an investigation stemming from the provided information is conducted by—

(A) a Federal, State, or local regulatory or law enforcement agency (including an office of the Inspector General under the Inspector General Act of 1978 (5 U.S.C. App.; Public Law 95–452);

(B) any Member of Congress, any committee of Congress, or the Government Accountability Office; or

(C) a person with supervisory authority over the employee or such other person who has the authority to investigate, discover, or terminate the misconduct;

(2) to refuse to violate or assist in the violation of any Federal law, rule, or regulation relating to railroad safety or security;

(3) to file a complaint, or directly cause to be brought a proceeding related to the enforcement of this part or, as applicable to railroad safety or security, chapter 51 or 57 of this title, or to testify in that proceeding;

(4) to notify, or attempt to notify, the railroad carrier or the Secretary of Transportation of a work-related personal injury or work-related illness of an employee;

(5) to cooperate with a safety or security investigation by the Secretary of Transportation, the Secretary of Homeland Security, or the National Transportation Safety Board;

(6) to furnish information to the Secretary of Transportation, the Secretary of Homeland Security, the National Transportation Safety Board, or any Federal, State, or local regulatory or law enforcement agency as to the facts relating to any accident or incident resulting in injury or death to an individual or damage to property occurring in connection with railroad transportation; or

(7) to accurately report hours on duty pursuant to chapter 211.

(b) **HAZARDOUS SAFETY OR SECURITY CONDITIONS.**—(1) A railroad carrier engaged in interstate or foreign commerce, or an officer or employee of such a railroad carrier, shall not discharge, demote, suspend, reprimand, or in any other way discriminate against an employee for—

(A) reporting, in good faith, a hazardous safety or security condition;

(B) refusing to work when confronted by a hazardous safety or security condition related to the performance of the employee’s duties, if the conditions described in paragraph (2) exist; or

(C) refusing to authorize the use of any safety-related equipment, track, or structures, if the employee is responsible for the inspection or repair of the equipment, track, or structures, when the employee believes that the equipment, track, or structures are in a hazardous safety or security condition, if the conditions described in paragraph (2) exist.

(2) A refusal is protected under paragraph (1)(B) and (C) if—

(A) the refusal is made in good faith and no reasonable alternative to the refusal is available to the employee;

(B) a reasonable individual in the circumstances then confronting the employee would conclude that—

(i) the hazardous condition presents an imminent danger of death or serious injury; and

(ii) the urgency of the situation does not allow sufficient time to eliminate the danger without such refusal; and

(C) the employee, where possible, has notified the railroad carrier of the existence of the hazardous condition and the intention not to perform further work, or not to authorize the use of the hazardous equipment, track, or structures, unless the condition is corrected immediately or the equipment, track, or structures are repaired properly or replaced.

(3) In this subsection, only paragraph (1)(A) shall apply to security personnel employed by a railroad carrier to protect individuals and property transported by railroad.

(c) PROMPT MEDICAL ATTENTION.—

(1) PROHIBITION.—A railroad carrier or person covered under this section may not deny, delay, or interfere with the medical or first aid treatment of an employee who is injured during the course of employment. If transportation to a hospital is requested by an employee who is injured during the course of employment, the railroad shall promptly arrange to have the injured employee transported to the nearest hospital where the employee can receive safe and appropriate medical care.

(2) DISCIPLINE.—A railroad carrier or person covered under this section may not discipline, or threaten discipline to, an employee for requesting medical or first aid treatment, or for following orders or a treatment plan of a treating physician, except that a railroad carrier's refusal to permit an employee to return to work following medical treatment shall not be considered a violation of this section if the refusal is pursuant to Federal Railroad Administration medical standards for fitness of duty or, if there are no pertinent Federal Railroad Administration standards, a carrier's medical standards for fitness for duty. For purposes of this paragraph, the term "discipline" means to bring charges against a person in a disciplinary proceeding, suspend, terminate, place on probation, or make note of reprimand on an employee's record.

(d) ENFORCEMENT ACTION.—

(1) IN GENERAL.—An employee who alleges discharge, discipline, or other discrimination in violation of subsection (a), (b), or (c) of this section, may seek relief in accordance with the provisions of this section, with any petition or other request for relief under this section to be initiated by filing a complaint with the Secretary of Labor.

(2) PROCEDURE.—

(A) IN GENERAL.—Any action under paragraph (1) shall be governed under the rules and procedures set forth in section 42121(b), including:

(i) BURDENS OF PROOF.—Any action brought under (d)(1)¹ shall be governed by the legal burdens of proof set forth in section 42121(b).

(ii) STATUTE OF LIMITATIONS.—An action under paragraph (1) shall be commenced not later than 180 days after the date on which the alleged violation of subsection (a), (b), or (c) of this section occurs.

(iii) CIVIL ACTIONS TO ENFORCE.—If a person fails to comply with an order issued by the Secretary of Labor pursuant to the procedures in section 42121(b), the Secretary of Labor may bring a civil action to enforce the order in the district court of the United States for the judicial district in which the violation occurred, as set forth in 42121.²

(B) EXCEPTION.—Notification made under section 42121(b)(1) shall be made to the person named in the complaint and the person's employer.

(3) DE NOVO REVIEW.—With respect to a complaint under paragraph (1), if the Secretary of Labor has not issued a final decision within 210 days after the filing of the complaint and if the delay is not due to the bad faith of the employee, the employee may bring an original action at law or equity for de novo review in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy, and which action shall, at the request of either party to such action, be tried by the court with a jury.

(4) APPEALS.—Any person adversely affected or aggrieved by an order issued pursuant to the procedures in section 42121(b),³ may obtain review of the order in the United States court of appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred or the circuit in which the complainant resided on the date of such violation. The petition for review must be filed not later than 60 days after the date of the issuance of the final order of the Secretary of Labor. The review shall conform to chapter 7 of title 5. The commencement of proceedings under this paragraph shall not, unless ordered by the court, operate as a stay of the order.

(e) REMEDIES.—

(1) IN GENERAL.—An employee prevailing in any action under subsection (d) shall be entitled to all relief necessary to make the employee whole.

(2) DAMAGES.—Relief in an action under subsection (d) (including an action described in subsection (d)(3)) shall include—

(A) reinstatement with the same seniority status that the employee would have had, but for the discrimination;

(B) any backpay, with interest; and

(C) compensatory damages, including compensation for any special damages sustained as a result of the discrimination, including litigation costs, expert witness fees, and reasonable attorney fees.

¹ So in original. Probably should be preceded by "subsection".

² So in original. Probably should be preceded by "section".

³ So in original. The comma probably should not appear.

(3) POSSIBLE RELIEF.—Relief in any action under subsection (d) may include punitive damages in an amount not to exceed \$250,000.

(f) ELECTION OF REMEDIES.—An employee may not seek protection under both this section and another provision of law for the same allegedly unlawful act of the railroad carrier.

(g) NO PREEMPTION.—Nothing in this section preempts or diminishes any other safeguards against discrimination, demotion, discharge, suspension, threats, harassment, reprimand, retaliation, or any other manner of discrimination provided by Federal or State law.

(h) RIGHTS RETAINED BY EMPLOYEE.—Nothing in this section shall be deemed to diminish the rights, privileges, or remedies of any employee under any Federal or State law or under any collective bargaining agreement. The rights and remedies in this section may not be waived by any agreement, policy, form, or condition of employment.

(i) DISCLOSURE OF IDENTITY.—

(1) Except as provided in paragraph (2) of this subsection, or with the written consent of the employee, the Secretary of Transportation or the Secretary of Homeland Security may not disclose the name of an employee of a railroad carrier who has provided information about an alleged violation of this part or, as applicable to railroad safety or security, chapter 51 or 57 of this title, or a regulation prescribed or order issued under any of those provisions.

(2) The Secretary of Transportation or the Secretary of Homeland Security shall disclose to the Attorney General the name of an employee described in paragraph (1) if the matter is referred to the Attorney General for enforcement. The Secretary making such disclosures shall provide reasonable advance notice to the affected employee if disclosure of that person's identity or identifying information is to occur.

(j) PROCESS FOR REPORTING SECURITY PROBLEMS TO THE DEPARTMENT OF HOMELAND SECURITY.—

(1) ESTABLISHMENT OF PROCESS.—The Secretary of Homeland Security shall establish through regulations, after an opportunity for notice and comment, a process by which any person may report to the Secretary of Homeland Security regarding railroad security problems, deficiencies, or vulnerabilities.

(2) ACKNOWLEDGMENT OF RECEIPT.—If a report submitted under paragraph (1) identifies the person making the report, the Secretary of Homeland Security shall respond promptly to such person and acknowledge receipt of the report.

(3) STEPS TO ADDRESS PROBLEM.—The Secretary of Homeland Security shall review and consider the information provided in any report submitted under paragraph (1) and shall take appropriate steps to address any problems or deficiencies identified.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 867; Pub. L. 110–53, title XV, §1521, Aug. 3, 2007, 121 Stat. 444; Pub. L. 110–432, div. A, title IV, §419, Oct. 16, 2008, 122 Stat. 4892.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
20109(a)	45:441(a).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §212(a)–(c)(1), (d); added Oct. 10, 1980, Pub. L. 96–423, §10, 94 Stat. 1815.
	45:441(e).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §212(e); added Oct. 10, 1980, Pub. L. 96–423, §10, 94 Stat. 1815; Sept. 3, 1992, Pub. L. 102–365, §5(b), 106 Stat. 975.
20109(b)	45:441(b).	
20109(c)	45:441(c)(1).	
	45:441(c)(2).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §212(c)(2); added Oct. 10, 1980, Pub. L. 96–423, §10, 94 Stat. 1815; restated June 22, 1988, Pub. L. 100–342, §5(a), 102 Stat. 627.
20109(d)	45:441(d).	
20109(e)	45:441(e).	
	45:441(f).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §212(f); added June 22, 1988, Pub. L. 100–342, §5(b), 102 Stat. 627.

In subsections (a) and (b), the words “railroad carrier” are substituted for “common carrier by railroad” because of the definition of “railroad carrier” in section 20102 of the revised title.

In subsection (a)(1), the words “under or” are omitted as surplus.

In subsection (b)(1)(B), before subclause (i), the words “the hazardous condition is of such a nature that” are omitted as surplus. The word “individual” is substituted for “person” as being more appropriate. In subclause (ii), the words “resort to” are omitted as surplus.

In subsection (b)(1)(C), the words “his apprehension of” are omitted as surplus.

In subsection (b)(2), the words “by a carrier . . . transported by railroad” are substituted for “by a railroad . . . transported by such railroad” for consistency in the revised title.

Subsection (d) is substituted for 45:441(d) for clarity and to eliminate unnecessary words.

Subsection (e)(2) is substituted for 45:441(f)(2) to eliminate unnecessary words.

Editorial Notes

REFERENCES IN TEXT

The Inspector General Act of 1978, referred to in subsec. (a)(1)(A), is Pub. L. 95–452, Oct. 12, 1978, 92 Stat. 1101, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

2008—Subsec. (c). Pub. L. 110–432, §419(a)(2), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 110–432, §419(a)(1), redesignated subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (d)(1). Pub. L. 110–432, §419(b)(1)(A), substituted “(a), (b), or (c)” for “(a) or (b)”.

Subsec. (d)(2)(A)(i). Pub. L. 110–432, §419(b)(1)(B), substituted “(d)(1)” for “(c)(1)”.

Subsec. (d)(2)(A)(ii). Pub. L. 110–432, §419(b)(1)(C), substituted “(a), (b), or (c)” for “(a) or (b)”.

Subsec. (e). Pub. L. 110–432, §419(a)(1), redesignated subsec. (d) as (e). Former subsec. (e) redesignated (f).

Subsec. (e)(1). Pub. L. 110–432, §419(b)(2)(A), substituted “(d)” for “(c)”.

Subsec. (e)(2). Pub. L. 110–432, §419(b)(2)(B), (C), substituted “(d)” for “(c)” and “(d)(3)” for “(c)(3)” in introductory provisions.

Subsec. (e)(3). Pub. L. 110–432, §419(b)(2)(D), substituted “(d)” for “(c)”.

Subsecs. (f) to (j). Pub. L. 110–432, §419(a)(1), redesignated subsecs. (e) to (i) as (f) to (j), respectively.

2007—Pub. L. 110–53 amended section generally. Prior to amendment, section consisted of subsecs. (a) to (e)

relating to prohibition against discharge or discrimination for filing of complaints or testifying, prohibition against discharge or discrimination for refusal to work because of hazardous conditions, dispute resolution, election of remedies, and nondisclosure of identity of employee who had provided information regarding a violation.

Statutory Notes and Related Subsidiaries

CRITICAL INCIDENT STRESS PLANS

Pub. L. 117–58, div. B, title II, § 22424, Nov. 15, 2021, 135 Stat. 752, provided that: “The Secretary [of Transportation] shall amend part 272 of title 49, Code of Federal Regulations, to the extent necessary to ensure that—

“(1) the coverage of a critical incident stress plan under section 272.7 of such part includes employees of commuter railroads and intercity passenger railroads (as such terms are defined in section 272.9 of such part), including employees who directly interact with passengers; and

“(2) an assault against an employee requiring medical attention is included in the definition of critical incident under section 272.9 of such part.”

Pub. L. 110–432, div. A, title IV, § 410, Oct. 16, 2008, 122 Stat. 4887, provided that:

“(a) IN GENERAL.—The Secretary of Transportation, in consultation with the Secretary of Labor and the Secretary of Health and Human Services, as appropriate, shall require each Class I railroad carrier, each intercity passenger railroad carrier, and each commuter railroad carrier to develop and submit for approval to the Secretary a critical incident stress plan that provides for debriefing, counseling, guidance, and other appropriate support services to be offered to an employee affected by a critical incident.

“(b) PLAN REQUIREMENTS.—Each such plan shall include provisions for—

“(1) relieving an employee who was involved in a critical incident of his or her duties for the balance of the duty tour, following any actions necessary for the safety of persons and contemporaneous documentation of the incident;

“(2) upon the employee’s request, relieving an employee who witnessed a critical incident of his or her duties following any actions necessary for the safety of persons and contemporaneous documentation of the incident; and

“(3) providing such leave from normal duties as may be necessary and reasonable to receive preventive services, treatment, or both, related to the incident.

“(c) SECRETARY TO DEFINE WHAT CONSTITUTES A CRITICAL INCIDENT.—Within 30 days after the date of enactment of this Act [Oct. 16, 2008], the Secretary shall initiate a rulemaking proceeding to define the term ‘critical incident’ for the purposes of this section.”

[For definitions of “railroad carrier” and “Secretary”, as used in section 410 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.]

§ 20110. Effect on employee qualifications and collective bargaining

This chapter does not—

(1) authorize the Secretary of Transportation to prescribe regulations and issue orders related to qualifications of employees, except qualifications specifically related to safety; or

(2) prohibit the bargaining representatives of railroad carriers and their employees from making collective bargaining agreements under the Railway Labor Act (45 U.S.C. 151 et seq.), including agreements related to qualifications of employees, that are not inconsistent with regulations prescribed and orders issued under this chapter.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 868.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
20110	45:431(a) (2d, last sentences).	Oct. 16, 1970, Pub. L. 91–458, § 202(a) (2d, last sentences), 84 Stat. 971.

In clause (2), the words “railroad carriers” are substituted for “common carriers” for consistency in this part.

Editorial Notes

REFERENCES IN TEXT

The Railway Labor Act, referred to in par. (2), is act May 20, 1926, ch. 347, 44 Stat. 577, as amended, which is classified principally to chapter 8 (§ 151 et seq.) of Title 45, Railroads. For complete classification of this Act to the Code, see section 151 of Title 45 and Tables.

§ 20111. Enforcement by the Secretary of Transportation

(a) EXCLUSIVE AUTHORITY.—The Secretary of Transportation has exclusive authority—

(1) to impose and compromise a civil penalty for a violation of a railroad safety regulation prescribed or order issued by the Secretary;

(2) except as provided in section 20113 of this title, to request an injunction for a violation of a railroad safety regulation prescribed or order issued by the Secretary; and

(3) to recommend appropriate action be taken under section 20112(a) of this title.

(b) COMPLIANCE ORDERS.—The Secretary may issue an order directing compliance with this part or with a railroad safety regulation prescribed or order issued under this part.

(c) ORDERS PROHIBITING INDIVIDUALS FROM PERFORMING SAFETY-SENSITIVE FUNCTIONS.—

(1) If an individual’s violation of this part, chapter 51 of this title, or a regulation prescribed, or an order issued, by the Secretary under this part or chapter 51 of this title is shown to make that individual unfit for the performance of safety-sensitive functions, the Secretary, after providing notice and an opportunity for a hearing, may issue an order prohibiting the individual from performing safety-sensitive functions in the railroad industry for a specified period of time or until specified conditions are met.

(2) This subsection does not affect the Secretary’s authority under section 20104 of this title to act on an emergency basis.

(d) REGULATIONS REQUIRING REPORTING OF REMEDIAL ACTIONS.—(1) The Secretary shall prescribe regulations to require that a railroad carrier notified by the Secretary that imposition of a civil penalty will be recommended for a failure to comply with this part, chapter 51 or 57 of this title, or a regulation prescribed or order issued under any of those provisions, shall report to the Secretary, not later than the 30th day after the end of the month in which the notification is received—

(A) actions taken to remedy the failure; or

(B) if appropriate remedial actions cannot be taken by that 30th day, an explanation of the reasons for the delay.

(2) The Secretary—

(A) not later than June 3, 1993, shall issue a notice of a regulatory proceeding for proposed regulations to carry out this subsection; and

(B) not later than September 3, 1994, shall prescribe final regulations to carry out this subsection.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 868; Pub. L. 103-440, title II, §205, Nov. 2, 1994, 108 Stat. 4620; Pub. L. 110-432, div. A, title III, §305, Oct. 16, 2008, 122 Stat. 4879.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
20111(a)	45:435(a) (last sentence).	Oct. 16, 1970, Pub. L. 91-458, §206(a) (last sentence), 84 Stat. 973; Nov. 16, 1990, Pub. L. 101-615, §28(a)(4), 104 Stat. 3276.
20111(b)	45:437(a) (2d sentence).	Oct. 16, 1970, Pub. L. 91-458, 84 Stat. 971, §208(a) (2d sentence); added Jan. 3, 1975, Pub. L. 93-633, §206, 88 Stat. 2166; June 22, 1988, Pub. L. 100-342, §8, 102 Stat. 628.
	45:437(d)(1) (last sentence).	Oct. 16, 1970, Pub. L. 91-458, 84 Stat. 971, §208(d)(1) (last sentence); added Oct. 10, 1980, Pub. L. 96-423, §6(b), 94 Stat. 1814.
20111(c)	45:438(f).	Oct. 16, 1970, Pub. L. 91-458, 84 Stat. 971, §209(f); added June 22, 1988, Pub. L. 100-342, §3(a)(4), 102 Stat. 625.
20111(d)	45:437 (note).	Sept. 3, 1992, Pub. L. 102-365, §3, 106 Stat. 972.

In this section, the word “impose” is substituted for “assess” for consistency.

In subsection (b), the word “further” is omitted as surplus.

In subsection (d), the words “this part, chapter 51 or 57 of this title” are substituted for “the Federal railroad safety laws, as such term is defined in section 441(e) of this title” because 45:441(e) is not restated as a definition.

Editorial Notes

AMENDMENTS

2008—Subsec. (c). Pub. L. 110-432 amended subsec. (c) generally. Prior to amendment, text read as follows: “If an individual’s violation of this chapter or any of the laws transferred to the jurisdiction of the Secretary of Transportation by subsection (e)(1), (2), and (6)(A) of section 6 of the Department of Transportation Act, as in effect on June 1, 1994, or a regulation prescribed or order issued by the Secretary under this chapter is shown to make that individual unfit for the performance of safety-sensitive functions, the Secretary, after notice and opportunity for a hearing, may issue an order prohibiting the individual from performing safety-sensitive functions in the railroad industry for a specified period of time or until specified conditions are met. This subsection does not affect the Secretary’s authority under section 20104 of this title to act on an emergency basis.”

1994—Subsec. (c). Pub. L. 103-440 inserted “this chapter or any of the laws transferred to the jurisdiction of the Secretary of Transportation by subsection (e)(1), (2), and (6)(A) of section 6 of the Department of Transportation Act, as in effect on June 1, 1994, or” after “individual’s violation of”.

§ 20112. Enforcement by the Attorney General

(a) CIVIL ACTIONS.—At the request of the Secretary of Transportation, the Attorney General may bring a civil action in a district court of the United States—

(1) to enjoin a violation of, or to enforce, this part, except for section 20109 of this title, or a railroad safety regulation prescribed or order issued by the Secretary;

(2) to collect a civil penalty imposed or an amount agreed on in compromise under section 21301, 21302, or 21303 of this title; or

(3) to enforce a subpoena, request for admissions, request for production of documents or other tangible things, or request for testimony by deposition issued by the Secretary under this part.

(b) VENUE.—(1) Except as provided in paragraph (2) of this subsection, a civil action under this section may be brought in the judicial district in which the violation occurred or the defendant has its principal executive office. If an action to collect a penalty is against an individual, the action also may be brought in the judicial district in which the individual resides.

(2) A civil action to enforce a subpoena issued by the Secretary or a compliance order issued under section 20111(b) of this title may be brought in the judicial district in which the defendant resides, does business, or is found.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 869; Pub. L. 110-432, div. A, title III, §309, Oct. 16, 2008, 122 Stat. 4882.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
20112(a)	45:437(a) (last sentence related to authority to bring actions).	Oct. 16, 1970, Pub. L. 91-458, 84 Stat. 971, §208(a) (last sentence); added June 22, 1988, Pub. L. 100-342, §8, 102 Stat. 628.
	45:437(d)(2).	Oct. 16, 1970, Pub. L. 91-458, 84 Stat. 971, §208(d)(2); added Oct. 10, 1980, Pub. L. 96-423, §6(b), 94 Stat. 1814.
	45:438(c) (4th sentence related to authority to bring actions).	Oct. 16, 1970, Pub. L. 91-458, §209(c) (4th sentence), 84 Stat. 975; Oct. 10, 1980, Pub. L. 96-423, §8(a), 94 Stat. 1814; June 22, 1988, Pub. L. 100-342, §3(a)(3)(A), (B), 102 Stat. 624.
	45:439(a) (related to actions by Attorney General).	Oct. 16, 1970, Pub. L. 91-458, §210(a) (related to actions by Attorney General), 84 Stat. 975; Oct. 10, 1980, Pub. L. 96-423, §9(a), 94 Stat. 1814; Nov. 16, 1990, Pub. L. 101-615, §28(f), 104 Stat. 3277.
20112(b)(1) ..	45:438(c) (4th sentence related to venue).	
	45:439(c) (related to actions by Attorney General).	Oct. 16, 1970, Pub. L. 91-458, 84 Stat. 971, §210(c) (related to actions by Attorney General); added Oct. 10, 1980, Pub. L. 96-423, §9(b), 94 Stat. 1815.
20112(b)(2) ..	45:437(a) (last sentence related to venue).	

In subsection (a), before clause (1), the words “At the request of the Secretary of Transportation” are substituted for “at the request of the Secretary” in 45:439(a), and are made applicable to all of the source provisions restated in this subsection, for clarity and consistency. The words “at the request of the Secretary” in 45:439(a) are interpreted and restated to mean that the Secretary’s request is to the Attorney General rather than to the district court. See H.R. Rept. No. 91-1194, 91st Cong., 2d Sess., p. 20 (1970). The words “the Attorney General may bring a civil action in a district court of the United States” are substituted for “such district court shall have jurisdiction, upon petition by the Attorney General” in 45:437(a) (last sen-

tence), “The district courts of the United States shall have jurisdiction, upon petition by the Attorney General” in 45:437(d)(2), and “The United States district court shall . . . upon petition by the Attorney General on behalf of the United States . . . have jurisdiction” in 45:439(a) for clarity and consistency. It is not necessary to restate that the district court has jurisdiction because of 28:1331 and 1345. See also the statement of Senator Prouty in 115 Cong. Rec. 40205 (1969) explaining that similar language in section 110 of S. 1933, 91st Cong., 1st Sess. (the derivative source for 45:439) would grant the Attorney General the power to seek injunctions. Clauses (1)–(3) are substituted for the source provisions to eliminate unnecessary words. In clause (1), the words “subject to the provisions of rules 65(a) and (b) of the Federal Rules of Civil Procedure” in 45:439(a) are omitted as surplus because the Federal Rules of Civil Procedure (28 App. U.S.C.) apply in the district court unless otherwise provided. In clause (2), the words “or an amount agreed on in compromise” are added for clarity.

In subsection (b)(1), the text of 45:439(c) (words before 1st comma) is omitted because it applies only to actions brought by a State authority. See discussion of the cross-reference in the note for section 20113(c) of the revised title. The last sentence is substituted for “in which the individual resides” in 45:438(c) because of the restatement.

In subsection (b)(2), the words “compliance order issued under section 20111(b) of this title” are substituted for “order, or directive” because the latter words are interpreted as referring to “orders directing compliance” in 45:437(a) (2d sentence), restated in section 20111(b).

Editorial Notes

AMENDMENTS

2008—Subsec. (a)(1). Pub. L. 110–432, §309(1), inserted “this part, except for section 20109 of this title, or” after “enforce.”.

Subsec. (a)(2). Pub. L. 110–432, §309(2), substituted “21301, 21302, or 21303” for “21301”.

Subsec. (a)(3). Pub. L. 110–432, §309(3), (4), substituted “subpoena, request for admissions, request for production of documents or other tangible things, or request for testimony by deposition” for “subpena” and “part.” for “chapter.”

§ 20113. Enforcement by the States

(a) **INJUNCTIVE RELIEF.**—If the Secretary of Transportation does not begin a civil action under section 20112 of this title to enjoin the violation of a railroad safety regulation prescribed or order issued by the Secretary not later than 15 days after the date the Secretary receives notice of the violation and a request from a State authority participating in investigative and surveillance activities under section 20105 of this title that the action be brought, the authority may bring a civil action in a district court of the United States to enjoin the violation. This subsection does not apply if the Secretary makes an affirmative written finding that the violation did not occur or that the action is not necessary because of other enforcement action taken by the Secretary related to the violation.

(b) **IMPOSITION AND COLLECTION OF CIVIL PENALTIES.**—If the Secretary does not impose the applicable civil penalty for a violation of a railroad safety regulation prescribed or order issued by the Secretary not later than 60 days after the date of receiving notice from a State authority participating in investigative and surveillance activities under section 20105 of this title, the

authority may bring a civil action in a district court of the United States to impose and collect the penalty. This paragraph does not apply if the Secretary makes an affirmative written finding that the violation did not occur.

(c) **VENUE.**—A civil action under this section may be brought in the judicial district in which the violation occurred or the defendant has its principal executive office. However, a State authority may not bring an action under this section outside the State.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 869.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
20113(a)	45:436(b)(1) (related to authority to bring actions), (2). 45:439(a) (related to actions by States).	Oct. 16, 1970, Pub. L. 91–458, §207(b), (c), 84 Stat. 974; Nov. 2, 1978, Pub. L. 95–574, §8, 92 Stat. 2461; restated Oct. 10, 1980, Pub. L. 96–423, §5, 94 Stat. 1812. Oct. 16, 1970, Pub. L. 91–458, §210(a) (related to actions by States), 84 Stat. 975; Oct. 10, 1980, Pub. L. 96–423, §9(a), 94 Stat. 1814; Nov. 16, 1990, Pub. L. 101–615, §28(f), 104 Stat. 3277.
20113(b)	45:436(a)(1) (related to authority to bring actions), (2).	Oct. 16, 1970, Pub. L. 91–458, §207(a), 84 Stat. 974; Nov. 2, 1978, Pub. L. 95–574, §8, 92 Stat. 2461; restated Oct. 10, 1980, Pub. L. 96–423, §5, 94 Stat. 1812; Nov. 16, 1990, Pub. L. 101–615, §28(e), 104 Stat. 3277.
20113(c)	45:436(a)(1) (related to venue), (b)(1) (related to venue), (c). 45:439(c) (related to actions by States).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §210(c) (related to actions by States); added Oct. 10, 1980, Pub. L. 96–423, §9(b), 94 Stat. 1815.

In subsection (a), the language about jurisdiction in 45:439(a) (related to actions by States) is omitted for the reasons explained in the revision note for section 20112(a) of the revised title.

In subsection (b), the word “impose” is substituted for “assess” for consistency. The words “the authority may bring a civil action in an appropriate district court of the United States” are substituted for “agency may apply to the United States district court” for consistency in the revised title and with other titles of the United States Code. The words “included in or made applicable to such rule, regulation, order, or standard” are omitted as surplus.

In subsection (c), the reference to “section 207(d)” in section 210(c) of the Federal Railroad Safety Act of 1970 (Public Law 91–458, 84 Stat. 971), as added by section 9(b) of the Federal Railroad Safety Authorization Act of 1980 (Public Law 96–423, 94 Stat. 1815), is assumed to have been intended as a reference to section 207(c). The Federal Railroad Safety Authorization Act of 1980 was derived from S. 2730, which in turn was derived from H.R. 7104. See 126 Cong. Rec. 26535 (1980). Section 207(d) in an earlier version of H.R. 7104 was redesignated as section 207(c) during the legislative process and no section 207(d) was enacted. See H.R. Rept. No. 96–1025, 96th Cong., 2d Sess., pp. 14, 15 (1980).

§ 20114. Judicial procedures

(a) **CRIMINAL CONTEMPT.**—In a trial for criminal contempt for violating an injunction or restraining order issued under this chapter, the violation of which is also a violation of this chapter, the defendant may demand a jury trial. The defendant shall be tried as provided in rule

42(b) of the Federal Rules of Criminal Procedure (18 App. U.S.C.).

(b) SUBPENAS FOR WITNESSES.—A subpoena for a witness required to attend a district court of the United States in an action brought under this chapter may be served in any judicial district.

(c) REVIEW OF AGENCY ACTION.—Except as provided in section 20104(c) of this title, a proceeding to review a final action of the Secretary of Transportation under this part or, as applicable to railroad safety, chapter 51 or 57 of this title shall be brought in the appropriate court of appeals as provided in chapter 158 of title 28.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 870.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
20114(a)	45:439(b).	Oct. 16, 1970, Pub. L. 91–458, §§209(d), 210(b), 84 Stat. 975, 976.
20114(b)	45:438(d).	Oct. 16, 1970, Pub. L. 91–458, §202(f), 84 Stat. 972; re-stated Sept. 3, 1992, Pub. L. 102–365, §5(a)(1), 106 Stat. 975.
20114(c)	45:431(f).	

In subsection (a), the words “the defendant may demand a jury trial” are substituted for “trial shall be by the court, or, upon demand of the accused, by a jury” to eliminate unnecessary words and for consistency in the revised title.

In subsection (b), the words “may be served in any judicial district” are substituted for “may run into any other district” for clarity.

In subsection (c), the words “a final action of the Secretary” are substituted for “Any final agency action taken by the Secretary” to eliminate unnecessary words. The words “this part or, as applicable to railroad safety, chapter 51 or 57 of this title” are substituted for “this subchapter or under any of the other Federal railroad safety laws, as defined in section 441(e) of this title” because of the restatement. The words “is subject to judicial review as provided in chapter 7 of title 5” are omitted as unnecessary because 5:ch. 7 applies unless otherwise stated. The words “by and in the manner prescribed” are omitted as surplus.

§ 20115. User fees

(a) SCHEDULE OF FEES.—The Secretary of Transportation shall prescribe by regulation a schedule of fees for railroad carriers subject to this chapter. The fees—

(1) shall cover the costs of carrying out this chapter (except section 20108(a));

(2) shall be imposed fairly on the railroad carriers, in reasonable relationship to an appropriate combination of criteria such as revenue ton-miles, track miles, passenger miles, or other relevant factors; and

(3) may not be based on that part of industry revenues attributable to a railroad carrier or class of railroad carriers.

(b) COLLECTION PROCEDURES.—The Secretary shall prescribe procedures to collect the fees. The Secretary may use the services of a department, agency, or instrumentality of the United States Government or of a State or local authority to collect the fees, and may reimburse the department, agency, or instrumentality a reasonable amount for its services.

(c) COLLECTION, DEPOSIT, AND USE.—(1) The Secretary shall impose and collect fees under this section for each fiscal year before the end of the fiscal year.

(2) Fees collected under this section shall be deposited in the general fund of the Treasury as offsetting receipts. The fees may be used, to the extent provided in advance in an appropriation law, only to carry out this chapter.

(3) Fees prescribed under this section shall be imposed in an amount sufficient to pay for the costs of activities under this chapter. However, the total fees received for a fiscal year may not be more than 105 percent of the total amount of the appropriations for the fiscal year for activities to be financed by the fees.

(d) ANNUAL REPORT.—(1) Not later than 90 days after the end of each fiscal year in which fees are collected under this section, the Secretary shall report to Congress on—

(A) the amount of fees collected during that fiscal year;

(B) the impact of the fees on the financial health of the railroad industry and its competitive position relative to each competing mode of transportation; and

(C) the total cost of Government safety activities for each other competing mode of transportation, including any part of that total cost defrayed by Government user fees.

(2) Not later than 90 days after submitting a report for a fiscal year, the Secretary shall submit to Congress recommendations for corrective legislation if the report includes a finding that—

(A) there has been an impact from the fees on the financial health of the railroad industry or its competitive position relative to each competing mode of transportation; or

(B) there is a significant difference in the burden of Government user fees on the railroad industry and other competing modes of transportation.

(e) EXPIRATION.—This section expires on September 30, 1995.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 870.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
20115(a)	45:447(a)(1), (3).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §216; added Nov. 5, 1990, Pub. L. 101–508, §10501(a), 104 Stat. 1388–399.
20115(b)	45:447(a)(2).	
20115(c)	45:447(b)–(d).	
20115(d)	45:447(e).	
20115(e)	45:447(f).	

In subsection (a), before clause (1), the words “after notice and comment” are omitted as unnecessary because of 5:553.

In subsection (c), the words “beginning on March 1, 1991” are omitted as obsolete.

§ 20116. Rulemaking process

No rule or order issued by the Secretary under this part shall be effective if it incorporates by reference a code, rule, standard, requirement, or practice issued by an association or other entity that is not an agency of the Federal Government, unless—

(1) the date on which the code, rule, standard, requirement, or practice was adopted is specifically cited in the rule or order; or

(2) the code, rule, standard, requirement, or practice has been subject to notice and com-

ment under a rule or order issued under this part.

(Added Pub. L. 110-432, div. A, title I, §107(a), Oct. 16, 2008, 122 Stat. 4859; amended Pub. L. 114-94, div. A, title XI, §11316(c), Dec. 4, 2015, 129 Stat. 1676.)

Editorial Notes

PRIOR PROVISIONS

A prior section 20116, Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 871; amended Pub. L. 103-440, title II, §206(a), Nov. 2, 1994, 108 Stat. 4620, related to biennial safety reports prior to repeal by Pub. L. 104-66, title I, §1121(g)(1), Dec. 21, 1995, 109 Stat. 724.

AMENDMENTS

2015—Pub. L. 114-94 substituted “unless—” for “unless”, inserted par. (1) designation before “the date”, substituted “order; or” for “order, or” in par. (1), inserted par. (2) designation before “the code, rule, standard, requirement, or practice has been subject to notice and comment under a rule or order issued under this part.”, and realigned margins.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114-94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

§ 20117. Authorization of appropriations

(a) IN GENERAL.—(1) There are authorized to be appropriated to the Secretary of Transportation to carry out this part and to carry out responsibilities 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.

Editorial Notes

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;

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

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

- (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.)

Editorial Notes

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”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114-94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

§ 20121. Repair and replacement of damaged track inspection equipment

The Secretary of Transportation may receive and expend cash, or receive and utilize spare parts and similar items, from non-United States Government sources to repair damages to or replace United States Government-owned automated track inspection cars and equipment as a result of third-party liability for such damages, and any amounts collected under this section shall be credited directly to the Railroad Safety and Operations account of the Federal Railroad Administration and shall remain available until expended for the repair, operation, and maintenance of automated track inspection cars and equipment in connection with the automated track inspection program.

(Added Pub. L. 114-94, div. A, title XI, §11413(a), Dec. 4, 2015, 129 Stat. 1688.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective Oct. 1, 2015, see section 1003 of Pub. L. 114-94, set out as an Effective Date of 2015 Amend-

ment note under section 5313 of Title 5, Government Organization and Employees.

SUBCHAPTER II—PARTICULAR ASPECTS OF SAFETY

§ 20131. Restricted access to rolling equipment

The Secretary of Transportation shall prescribe regulations and issue orders that may be necessary to require that when railroad carrier employees (except train or yard crews) assigned to inspect, test, repair, or service rolling equipment have to work on, under, or between that equipment, every manually operated switch, including each crossover switch, providing access to the track on which the equipment is located is lined against movement to that track and secured by an effective locking device that can be removed only by the class or craft of employees performing the inspection, testing, repair, or service.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 872.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
20131	45:431(g) (1st sentence cl. (1)).	Oct. 16, 1970, Pub. L. 91-458, 84 Stat. 971, §202(g) (1st sentence cl. (1)); added July 8, 1976, Pub. L. 94-348, §5(b), 90 Stat. 820.

The words “within 180 days after July 8, 1976” are omitted as expired.

§ 20132. Visible markers for rear cars

(a) GENERAL.—The Secretary of Transportation shall prescribe regulations and issue orders that may be necessary to require that—

(1) the rear car of each passenger and commuter train has at least one highly visible marker that is lighted during darkness and when weather conditions restrict clear visibility; and

(2) the rear car of each freight train has highly visible markers during darkness and when weather conditions restrict clear visibility.

(b) PREEMPTION.—Notwithstanding section 20106 of this title, subsection (a) of this section does not prohibit a State from continuing in force a law, regulation, or order in effect on July 8, 1976, related to lighted markers on the rear car of a freight train except to the extent it would cause the car to be in violation of this section.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 873.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
20132(a)	45:431(g) (1st sentence cls. (2), (3)).	Oct. 16, 1970, Pub. L. 91-458, 84 Stat. 971, §202(g) (1st sentence cls. (2), (3), last sentence); added July 8, 1976, Pub. L. 94-348, §5(b), 90 Stat. 820.
20132(b)	45:431(g) (last sentence).	

In subsection (a), before clause (1), the words “within 180 days after July 8, 1976” are omitted as expired.

§ 20133. Passenger cars

(a) **MINIMUM STANDARDS.**—The Secretary of Transportation shall prescribe regulations establishing minimum standards for the safety of cars used by railroad carriers to transport passengers. Before prescribing such regulations, the Secretary shall consider—

- (1) the crashworthiness of the cars;
- (2) interior features (including luggage restraints, seat belts, and exposed surfaces) that may affect passenger safety;
- (3) maintenance and inspection of the cars;
- (4) emergency response procedures and equipment; and
- (5) any operating rules and conditions that directly affect safety not otherwise governed by regulations.

The Secretary may make applicable some or all of the standards established under this subsection to cars existing at the time the regulations are prescribed, as well as to new cars, and the Secretary shall explain in the rulemaking document the basis for making such standards applicable to existing cars.

(b) **INITIAL AND FINAL REGULATIONS.**—(1) The Secretary shall prescribe initial regulations under subsection (a) within 3 years after November 2, 1994. The initial regulations may exempt equipment used by tourist, historic, scenic, and excursion railroad carriers to transport passengers.

(2) The Secretary shall prescribe final regulations under subsection (a) within 5 years after November 2, 1994.

(c) **PERSONNEL.**—The Secretary may establish within the Department of Transportation 2 additional full-time equivalent positions beyond the number permitted under existing law to assist with the drafting, prescribing, and implementation of regulations under this section.

(d) **CONSULTATION.**—In prescribing regulations, issuing orders, and making amendments under this section, the Secretary may consult with Amtrak, public authorities operating railroad passenger service, other railroad carriers transporting passengers, organizations of passengers, and organizations of employees. A consultation is not subject to the Federal Advisory Committee Act (5 U.S.C. App.), but minutes of the consultation shall be placed in the public docket of the regulatory proceeding.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 873; Pub. L. 103–440, title II, §215(a), Nov. 2, 1994, 108 Stat. 4623; Pub. L. 104–287, §5(47), Oct. 11, 1996, 110 Stat. 3393.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
20133(a)	45:431(h)(1)(A) (1st, last sentences), (B), (4).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §202(h); added Oct. 10, 1980, Pub. L. 96–423, §14, 94 Stat. 1817; Jan. 14, 1983, Pub. L. 97–468, §702(a), 96 Stat. 2579.
20133(b)	45:431(h)(1)(A) (2d, 3d sentences), (2).	
20133(c)	45:431(h)(3).	

In subsection (a), the words “within one year after January 14, 1983” and “initial” are omitted as obsolete. The text of 45:431(h)(1)(B) is omitted as executed. The

words “after a hearing in accordance with subsection (b) of this section” are omitted as surplus because of section 20103(e) of the revised title.

In subsections (b) and (c), the word “subsequent” is omitted as surplus.

In subsection (c), the word “Amtrak” is substituted for “National Railroad Passenger Corporation” for consistency in this subtitle. The word “regulatory” is substituted for “rulemaking” for consistency in the revised title.

Editorial Notes**REFERENCES IN TEXT**

The Federal Advisory Committee Act, referred to in subsec. (d), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1996—Subsec. (b)(1). Pub. L. 104–287, §5(47)(A), substituted “November 2, 1994” for “the date of enactment of the Federal Railroad Safety Authorization Act of 1994”.

Subsec. (b)(2). Pub. L. 104–287, §5(47)(B), substituted “November 2, 1994” for “such date of enactment”.

1994—Pub. L. 103–440 amended section generally, substituting present provisions for provisions requiring the Secretary to take administrative action to ensure that the construction, operation, and maintenance of passenger rail equipment maximize the safety of passengers, and providing for areas of consideration and concentration, as well as consultation with Amtrak.

Statutory Notes and Related Subsidiaries**EMERGENCY LIGHTING**

Pub. L. 117–58, div. B, title II, §22406, Nov. 15, 2021, 135 Stat. 738, provided that: “Not later than 1 year after the date of enactment of this Act [Nov. 15, 2021], the Secretary [of Transportation] shall initiate a rulemaking to require that all rail carriers providing intercity passenger rail transportation or commuter rail passenger transportation (as such terms are defined in section 24102 of title 49, United States Code), develop and implement periodic inspection plans to ensure that passenger equipment offered for revenue service complies with the requirements under part 238 of title 49, Code of Federal Regulations, including ensuring that, in the event of a loss of power, there is adequate emergency lighting available to allow passengers, crew members, and first responders—

- “(1) to see and orient themselves;
- “(2) to identify obstacles;
- “(3) to safely move throughout the rail car; and
- “(4) to evacuate safely.”

PASSENGER RAIL VEHICLE OCCUPANT PROTECTION SYSTEMS

Pub. L. 117–58, div. B, title II, §22420, Nov. 15, 2021, 135 Stat. 749, provided that:

“(a) **STUDY.**—The Administrator of the Federal Railroad Administration shall conduct a study of the potential installation and use in new passenger rail rolling stock of passenger rail vehicle occupant protection systems that could materially improve passenger safety.

“(b) **CONSIDERATIONS.**—In conducting the study under subsection (a), the Administrator shall consider minimizing the risk of secondary collisions, including estimating the costs and benefits of the new requirements, through the use of—

- “(1) occupant restraint systems;
- “(2) air bags;
- “(3) emergency window retention systems; and
- “(4) interior designs, including seats, baggage restraints, and table configurations and attachments.

“(c) **REPORT.**—Not later than 2 years after the date of enactment of this Act [Nov. 15, 2021], the Administrator shall—

“(1) submit a report summarizing the findings of the study conducted pursuant to subsection (a) to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives; and

“(2) publish such report on the website of the Federal Railroad Administration.

“(d) RULEMAKING.—Following the completion of the study required under subsection (a), and after considering the costs and benefits of the proposed protection systems, the Administrator may promulgate a rule that establishes standards for the use of occupant protection systems in new passenger rail rolling stock.”

§ 20134. Grade crossings and railroad rights of way

(a) GENERAL.—To the extent practicable, the Secretary of Transportation shall maintain a coordinated effort to develop and carry out solutions to the railroad grade crossing problem and measures to protect pedestrians in densely populated areas along railroad rights of way. To carry out this subsection, the Secretary may use the authority of the Secretary under this chapter and over highway, traffic, and motor vehicle safety and over highway construction. The Secretary may purchase items of nominal value and distribute them to the public without charge as part of an educational or awareness program to accomplish the purposes of this section and of any other sections of this title related to improving the safety of highway-rail crossings and to preventing trespass on railroad rights of way, and the Secretary shall prescribe guidelines for the administration of this authority.

(b) SIGNAL SYSTEMS AND OTHER DEVICES.—Not later than June 22, 1989, the Secretary shall prescribe regulations and issue orders to ensure the safe maintenance, inspection, and testing of signal systems and devices at railroad highway grade crossings.

(c) DEMONSTRATION PROJECTS.—(1) The Secretary shall establish demonstration projects to evaluate whether accidents and incidents involving trains would be reduced by—

(A) reflective markers installed on the road surface or on a signal post at railroad grade crossings;

(B) stop signs or yield signs installed at grade crossings; and

(C) speed bumps or rumble strips installed on the road surfaces at the approaches to grade crossings.

(2) Not later than June 22, 1990, the Secretary shall submit a report on the results of the demonstration projects to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 873; Pub. L. 104–287, §5(48), Oct. 11, 1996, 110 Stat. 3393; Pub. L. 110–432, div. A, title II, §208(c), Oct. 16, 2008, 122 Stat. 4876.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
20134(a)	45:433(b).	Oct. 16, 1970, Pub. L. 91–458, § 204(b), 84 Stat. 972.

HISTORICAL AND REVISION NOTES—CONTINUED

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
20134(b)	45:431(q).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §§ 202(q), 215(a), (b); added June 22, 1988, Pub. L. 100–342, §§ 20, 23, 102 Stat. 638, 639; Sept. 3, 1992, Pub. L. 102–365, § 2(4), 106 Stat. 972.
20134(c)	45:445(a), (b).	

In subsection (a), the words “In addition” are omitted as surplus. The word “maintain” is substituted for “undertake” for clarity because the effort has begun. The words “the objective of” are omitted as surplus. The words “To carry out this section, the Secretary may use” are added for clarity.

In subsection (b), the words “Not later than June 22, 1989” are substituted for “within one year after June 22, 1988” for clarity.

In subsection (c)(1), before clause (A), and (2), the word “Secretary” is substituted for “Federal Railroad Administration” for clarity and consistency in the revised title. In this restatement, the Secretary of Transportation carries out all laws. However, this subsection is based on source provisions that provide that the Federal Railroad Administration carries out the subsection. A cross-reference to this subsection has been included in 49:103 to preserve duties and powers under this subsection to the Administrator of the Federal Railroad Administration.

In subsection (c)(1), before clause (A), the words “and incidents” are added for consistency in this part.

Editorial Notes

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–432 inserted at end “The Secretary may purchase items of nominal value and distribute them to the public without charge as part of an educational or awareness program to accomplish the purposes of this section and of any other sections of this title related to improving the safety of highway-rail crossings and to preventing trespass on railroad rights of way, and the Secretary shall prescribe guidelines for the administration of this authority.”

1996—Subsec. (c)(2). Pub. L. 104–287 substituted “Committee on Transportation and Infrastructure” for “Committee on Energy and Commerce”.

Statutory Notes and Related Subsidiaries

PEDESTRIAN CROSSING SAFETY

Pub. L. 110–432, div. A, title II, §201, Oct. 16, 2008, 122 Stat. 4868, provided that: “Not later than 1 year after the date of enactment of this Act [Oct. 16, 2008], the Secretary shall provide guidance to railroads on strategies and methods to prevent pedestrian accidents, incidents, injuries, and fatalities at or near passenger stations, including—

“(1) providing audible warning of approaching trains to the pedestrians at railroad passenger stations;

“(2) using signs, signals, or other visual devices to warn pedestrians of approaching trains;

“(3) installing infrastructure at pedestrian crossings to improve the safety of pedestrians crossing railroad tracks;

“(4) installing fences to prohibit access to railroad tracks; and

“(5) other strategies or methods as determined by the Secretary.”

[For definitions of “crossing”, “Secretary”, and “railroad”, as used in section 201 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.]

§ 20135. Licensing or certification of locomotive operators

(a) GENERAL.—The Secretary of Transportation shall prescribe regulations and issue orders to establish a program requiring the licensing or certification, after one year after the program is established, of any operator of a locomotive.

(b) PROGRAM REQUIREMENTS.—The program established under subsection (a) of this section—

(1) shall be carried out through review and approval of each railroad carrier's operator qualification standards;

(2) shall provide minimum training requirements;

(3) shall require comprehensive knowledge of applicable railroad carrier operating practices and rules;

(4) except as provided in subsection (c)(1) of this section, shall require consideration, to the extent the information is available, of the motor vehicle driving record of each individual seeking licensing or certification, including—

(A) any denial, cancellation, revocation, or suspension of a motor vehicle operator's license by a State for cause within the prior 5 years; and

(B) any conviction within the prior 5 years of an offense described in section 30304(a)(3)(A) or (B) of this title;

(5) may require, based on the individual's driving record, disqualification or the granting of a license or certification conditioned on requirements the Secretary prescribes; and

(6) shall require an individual seeking a license or certification—

(A) to request the chief driver licensing official of each State in which the individual has held a motor vehicle operator's license within the prior 5 years to provide information about the individual's driving record to the individual's employer, prospective employer, or the Secretary, as the Secretary requires; and

(B) to make the request provided for in section 30305(b)(4) of this title for information to be sent to the individual's employer, prospective employer, or the Secretary, as the Secretary requires.

(c) WAIVERS.—(1) The Secretary shall prescribe standards and establish procedures for waiving subsection (b)(4) of this section for an individual or class of individuals who the Secretary decides are not currently unfit to operate a locomotive. However, the Secretary may waive subsection (b)(4) for an individual or class of individuals with a conviction, cancellation, revocation, or suspension described in paragraph (2)(A) or (B) of this subsection only if the individual or class, after the conviction, cancellation, revocation, or suspension, successfully completes a rehabilitation program established by a railroad carrier or approved by the Secretary.

(2) If an individual, after the conviction, cancellation, revocation, or suspension, successfully completes a rehabilitation program established by a railroad carrier or approved by the Secretary, the individual may not be denied a license or certification under subsection (b)(4) of this section because of—

(A) a conviction for operating a motor vehicle when under the influence of, or impaired by, alcohol or a controlled substance; or

(B) the cancellation, revocation, or suspension of the individual's motor vehicle operator's license for operating a motor vehicle when under the influence of, or impaired by, alcohol or a controlled substance.

(d) OPPORTUNITY FOR HEARING.—An individual denied a license or certification or whose license or certification is conditioned on requirements prescribed under subsection (b)(4) of this section shall be entitled to a hearing under section 20103(e) of this title to decide whether the license has been properly denied or conditioned.

(e) OPPORTUNITY TO EXAMINE AND COMMENT ON INFORMATION.—The Secretary, employer, or prospective employer, as appropriate, shall make information obtained under subsection (b)(6) of this section available to the individual. The individual shall be given an opportunity to comment in writing about the information. Any comment shall be included in any record or file maintained by the Secretary, employer, or prospective employer that contains information to which the comment is related.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 874.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
20135(a)	45:431(i)(1).	Oct. 16, 1970, Pub. L. 91-458, 84 Stat. 971, §202(i); added June 22, 1988, Pub. L. 100-342, §§4(a), 7(b), 102 Stat. 625, 628; Sept. 3, 1992, Pub. L. 102-365, §2(1), 106 Stat. 972.
20135(b)	45:431(i)(2).	
20135(c)(1) ..	45:431(i)(4).	
20135(c)(2) ..	45:431(i)(6).	
20135(d)	45:431(i)(5).	
20135(e)	45:431(i)(3).	

In subsection (a), the words “within 12 months after June 22, 1988” are omitted as executed. The words “including any locomotive engineer” are omitted as surplus. The words “after one year after” are substituted for “after the expiration of 12 months following” to eliminate unnecessary words.

In subsection (b)(5), the word “requirements” is substituted for “terms” for consistency in this section.

In subsection (c)(1), the words “In establishing the program under this subsection” are omitted as surplus.

§ 20136. Automatic train control and related systems

The Secretary of Transportation shall prescribe regulations and issue orders to require that—

(1) an individual performing a test of an automatic train stop, train control, or cab signal apparatus required by the Secretary to be performed before entering territory where the apparatus will be used shall certify in writing that the test was performed properly; and

(2) the certification required under clause (1) of this section shall be maintained in the same way and place as the daily inspection report for the locomotive.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 875; Pub. L. 103-429, §6(19), Oct. 31, 1994, 108 Stat. 4379.)

HISTORICAL AND REVISION NOTES
PUB. L. 103-272

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
20136	45:431(j).	Oct. 16, 1970, Pub. L. 91-458, 84 Stat. 971, §202(j); added June 22, 1988, Pub. L. 100-342, §9, 102 Stat. 628.

The words “Within 90 days after June 22, 1988” are omitted as expired.

PUB. L. 103-429

This amends 49:20136(2) to correct an error in the codification enacted by section 1 of the Act of July 5, 1994 (Public Law 103-272, 108 Stat. 875).

Editorial Notes

AMENDMENTS

1994—Par. (2). Pub. L. 103-429 substituted “section” for “subsection”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-429 effective July 5, 1994, see section 9 of Pub. L. 103-429, set out as a note under section 321 of this title.

§ 20137. Event recorders

(a) DEFINITION.—In this section, “event recorder” means a device that—

(1) records train speed, hot box detection, throttle position, brake application, brake operations, and any other function the Secretary of Transportation considers necessary to record to assist in monitoring the safety of train operation, such as time and signal indication; and

(2) is designed to resist tampering.

(b) REGULATIONS AND ORDERS.—Not later than December 22, 1989, the Secretary shall prescribe regulations and issue orders that may be necessary to enhance safety by requiring that a train be equipped with an event recorder not later than one year after the regulations are prescribed and the orders are issued. However, if the Secretary finds it is impracticable to equip trains within that one-year period, the Secretary may extend the period to a date that is not later than 18 months after the regulations are prescribed and the orders are issued.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 875.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
20137	45:431(m).	Oct. 16, 1970, Pub. L. 91-458, 84 Stat. 971, §202(m); added June 22, 1988, Pub. L. 100-342, §10, 102 Stat. 629.

In subsection (b), the words “Not later than December 22, 1989” are substituted for “within 18 months after June 22, 1988” for clarity. The words “may extend the period to a date that is not later than 18 months after the regulations are prescribed and the orders are issued” are substituted for “may extend the deadline for compliance with such requirement, but in no event shall such deadline be extended past 18 months after such rules, regulations, orders, and standards are issued” to eliminate unnecessary words.

§ 20138. Tampering with safety and operational monitoring devices

(a) GENERAL.—The Secretary of Transportation shall prescribe regulations and issue orders to prohibit the willful tampering with, or disabling of, any specified railroad safety or operational monitoring device.

(b) PENALTIES.—(1) A railroad carrier operating a train on which a safety or operational monitoring device is tampered with or disabled in violation of a regulation prescribed or order issued under subsection (a) of this section is liable to the United States Government for a civil penalty under section 21301 of this title.

(2) An individual tampering with or disabling a safety or operational monitoring device in violation of a regulation prescribed or order issued under subsection (a) of this section, or knowingly operating or allowing to be operated a train on which such a device has been tampered with or disabled, is liable for penalties established by the Secretary. The penalties may include—

(A) a civil penalty under section 21301 of this title;

(B) suspension from work; and

(C) suspension or loss of a license or certification issued under section 20135 of this title.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 876.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
20138	45:431(o).	Oct. 16, 1970, Pub. L. 91-458, 84 Stat. 971, §202(o); added June 22, 1988, Pub. L. 100-342, §21, 102 Stat. 638; Sept. 3, 1992, Pub. L. 102-365, §2(3), 106 Stat. 972.

In subsection (a), the words “within 90 days after June 22, 1988” are omitted as expired.

In subsection (b), the words “by another person” are omitted as surplus.

§ 20139. Maintenance-of-way operations on railroad bridges

Not later than June 22, 1989, the Secretary of Transportation shall prescribe regulations and issue orders for the safety of maintenance-of-way employees on railroad bridges. The Secretary at least shall provide in those regulations standards for bridge safety equipment, including nets, walkways, handrails, and safety lines, and requirements for the use of vessels when work is performed on bridges located over bodies of water.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 876.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
20139	45:431(n).	Oct. 16, 1970, Pub. L. 91-458, 84 Stat. 971, §202(n); added June 22, 1988, Pub. L. 100-342, §19(a), 102 Stat. 637; Sept. 3, 1992, Pub. L. 102-365, §2(2), 106 Stat. 972.

The words “Not later than June 22, 1989” are substituted for “within one year after June 22, 1988” for clarity.

§ 20140. Alcohol and controlled substances testing

(a) **DEFINITION.**—In this section, “controlled substance” means any substance under section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802) specified by the Secretary of Transportation.

(b) **GENERAL.**—(1) In the interest of safety, the Secretary of Transportation shall prescribe regulations and issue orders, not later than October 28, 1992, related to alcohol and controlled substances use in railroad operations. The regulations shall establish a program requiring—

(A) a railroad carrier to conduct preemployment, reasonable suspicion, random, and post-accident testing of all railroad employees responsible for safety-sensitive functions (as decided by the Secretary) for the use of a controlled substance in violation of law or a United States Government regulation, and to conduct reasonable suspicion, random, and post-accident testing of such employees for the use of alcohol in violation of law or a United States Government regulation; the regulations shall permit such railroad carriers to conduct preemployment testing of such employees for the use of alcohol; and

(B) when the Secretary considers it appropriate, disqualification for an established period of time or dismissal of any employee found—

(i) to have used or been impaired by alcohol when on duty; or

(ii) to have used a controlled substance, whether or not on duty, except as allowed for medical purposes by law or a regulation or order under this chapter.

(2) When the Secretary of Transportation considers it appropriate in the interest of safety, the Secretary may prescribe regulations and issue orders requiring railroad carriers to conduct periodic recurring testing of railroad employees responsible for safety-sensitive functions (as decided by the Secretary) for the use of alcohol or a controlled substance in violation of law or a Government regulation.

(c) **TESTING AND LABORATORY REQUIREMENTS.**—In carrying out this section, the Secretary of Transportation shall develop requirements that shall—

(1) promote, to the maximum extent practicable, individual privacy in the collection of specimens;

(2) for laboratories and testing procedures for controlled substances, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any amendments to those guidelines, including mandatory guidelines establishing—

(A) comprehensive standards for every aspect of laboratory controlled substances testing and laboratory procedures to be applied in carrying out this section, including standards requiring the use of the best available technology to ensure the complete reliability and accuracy of controlled substances tests and strict procedures governing the chain of custody of specimens collected for controlled substances testing;

(B) the minimum list of controlled substances for which individuals may be tested; and

(C) appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform controlled substances testing in carrying out this section;

(3) require that a laboratory involved in controlled substances testing under this section have the capability and facility, at the laboratory, of performing screening and confirmation tests;

(4) provide that all tests indicating the use of alcohol or a controlled substance in violation of law or a Government regulation be confirmed by a scientifically recognized method of testing capable of providing quantitative information about alcohol or a controlled substance;

(5) provide that each specimen be subdivided, secured, and labeled in the presence of the tested individual and that a part of the specimen be retained in a secure manner to prevent the possibility of tampering, so that if the individual’s confirmation test results are positive the individual has an opportunity to have the retained part tested by a 2d confirmation test done independently at another certified laboratory if the individual requests the 2d confirmation test not later than 3 days after being advised of the results of the first confirmation test;

(6) ensure appropriate safeguards for testing to detect and quantify alcohol in breath and body fluid samples, including urine and blood, through the development of regulations that may be necessary and in consultation with the Secretary of Health and Human Services;

(7) provide for the confidentiality of test results and medical information (other than information about alcohol or a controlled substance) of employees, except that this clause does not prevent the use of test results for the orderly imposition of appropriate sanctions under this section; and

(8) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

(d) **REHABILITATION.**—The Secretary of Transportation shall prescribe regulations or issue orders establishing requirements for rehabilitation programs that at least provide for the identification and opportunity for treatment of railroad employees responsible for safety-sensitive functions (as decided by the Secretary) in need of assistance in resolving problems with the use of alcohol or a controlled substance in violation of law or a Government regulation. The Secretary shall decide on the circumstances under which employees shall be required to participate in a program. Each railroad carrier is encouraged to make such a program available to all of its employees in addition to employees responsible for safety-sensitive functions. This subsection does not prevent a railroad carrier from establishing a program under this subsection in cooperation with another railroad carrier.

(e) INTERNATIONAL OBLIGATIONS AND FOREIGN LAWS AND REGULATIONS.—In carrying out this section, the Secretary of Transportation—

(1) shall establish only requirements that are consistent with international obligations of the United States; and

(2) shall consider applicable laws and regulations of foreign countries.

(f) OTHER REGULATIONS ALLOWED.—This section does not prevent the Secretary of Transportation from continuing in effect, amending, or further supplementing a regulation prescribed or order issued before October 28, 1991, governing the use of alcohol or a controlled substance in railroad operations.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 876; Pub. L. 104–59, title III, §342(b), Nov. 28, 1995, 109 Stat. 609.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
20140(a)	45:431(r)(5).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §202(r); added Oct. 28, 1991, Pub. L. 102–143, §4, 105 Stat. 957.
20140(b)	45:431(r)(1) (1st–3d sentences).	
20140(c)	45:431(r)(2).	
20140(d)	45:431(r)(3).	
20140(e)	45:431(r)(4).	
20140(f)	45:431(r)(1) (last sentence).	

In subsection (b)(1), before clause (A), the words “controlled substances” are substituted for “drug” for consistency in this section. In clauses (B) and (C), the word “found” is substituted for “determined” for consistency in the revised title.

In subsection (c)(3), the words “of any employee” are omitted as surplus.

In subsection (c)(4), the words “by any employee” are omitted as surplus.

In subsection (c)(5), the word “tested” is substituted for “assayed” for consistency. The words “2d confirmation test” are substituted for “independent test” for clarity and consistency.

Editorial Notes

AMENDMENTS

1995—Subsec. (b)(1)(A). Pub. L. 104–59 amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “a railroad carrier to conduct pre-employment, reasonable suspicion, random, and post-accident testing of all railroad employees responsible for safety-sensitive functions (as decided by the Secretary) for the use of alcohol or a controlled substance in violation of law or a United States Government regulation; and”.

Statutory Notes and Related Subsidiaries

CONTROLLED SUBSTANCES TESTING FOR MECHANICAL EMPLOYEES

Pub. L. 117–58, div. B, title II, §22427, Nov. 15, 2021, 135 Stat. 756, provided that: “Not later than 180 days after the date of enactment of this Act [Nov. 15, 2021], the Secretary [of Transportation] shall amend the regulations under part 219 of title 49, Code of Federal Regulations, to require all mechanical employees of railroads to be subject to all of the breath or body fluid testing set forth in subpart C, D, and E of such part, including random testing, reasonable suspicion testing, reasonable cause testing, pre-employment testing, return-to-duty testing, and follow-up testing.”

ALCOHOL AND CONTROLLED SUBSTANCE TESTING OF MECHANICAL EMPLOYEES

Pub. L. 115–271, title VIII, §8102, Oct. 24, 2018, 132 Stat. 4104, provided that:

“(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act [Oct. 24, 2018], the Secretary of Transportation shall publish a rule in the Federal Register revising the regulations promulgated under section 20140 of title 49, United States Code, to cover all employees of railroad carriers who perform mechanical activities.

“(b) DEFINITION OF MECHANICAL ACTIVITIES.—For the purposes of the rule under subsection (a), the Secretary shall define the term ‘mechanical activities’ by regulation.”

ALCOHOL AND CONTROLLED SUBSTANCE TESTING FOR MAINTENANCE-OF-WAY EMPLOYEES

Pub. L. 110–432, div. A, title IV, §412, Oct. 16, 2008, 122 Stat. 4889, as amended by Pub. L. 114–94, div. A, title XI, §11316(j)(6), Dec. 4, 2015, 129 Stat. 1678, provided that: “Not later than 2 years following the date of enactment of this Act [Oct. 16, 2008], the Secretary shall complete a rulemaking proceeding to revise the regulations prescribed under section 20140 of title 49, United States Code, to cover all employees of railroad carriers and contractors or subcontractors to railroad carriers who perform maintenance-of-way activities.”

[For definition of “railroad carrier”, as used in section 412 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.]

§ 20141. Power brake safety

(a) REVIEW AND REVISION OF EXISTING REGULATIONS.—The Secretary of Transportation shall review existing regulations on railroad power brakes and, not later than December 31, 1993, revise the regulations based on safety information presented during the review. Where applicable, the Secretary shall prescribe regulations that establish standards on dynamic braking equipment.

(b) 2-WAY END-OF-TRAIN DEVICES.—(1) The Secretary shall require 2-way end-of-train devices (or devices able to perform the same function) on road trains, except locals, road switchers, or work trains, to enable the initiation of emergency braking from the rear of a train. The Secretary shall prescribe regulations as soon as possible, but not later than December 31, 1993, requiring the 2-way end-of-train devices. The regulations at least shall—

(A) establish standards for the devices based on performance;

(B) prohibit a railroad carrier, on or after the date that is one year after the regulations are prescribed, from acquiring any end-of-train device for use on trains that is not a 2-way device meeting the standards established under clause (A) of this paragraph;

(C) require that the trains be equipped with 2-way end-of-train devices meeting those standards not later than 4 years after the regulations are prescribed; and

(D) provide that any 2-way end-of-train device acquired for use on trains before the regulations are prescribed shall be deemed to meet the standards.

(2) The Secretary may consider petitions to amend the regulations prescribed under paragraph (1) of this subsection to allow the use of alternative technologies that meet the same

basic performance requirements established by the regulations.

(3) In developing the regulations required by paragraph (1) of this subsection, the Secretary shall consider information presented under subsection (a) of this section.

(c) EXCLUSIONS.—The Secretary may exclude from regulations prescribed under subsections (a) and (b) of this section any category of trains or rail operations if the Secretary decides that the exclusion is in the public interest and is consistent with railroad safety. The Secretary shall make public the reasons for the exclusion. The Secretary at least shall exclude from the regulations prescribed under subsection (b)—

- (1) trains that have manned cabooses;
- (2) passenger trains with emergency brakes;
- (3) trains that operate only on track that is not part of the general railroad system;
- (4) trains that do not exceed 30 miles an hour and do not operate on heavy grades, except for any categories of trains specifically designated by the Secretary; and
- (5) trains that operate in a push mode.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 878.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
20141(a)	45:431(r)(1), (2).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §202(r); added Sept. 3, 1992, Pub. L. 102–365, §7, 106 Stat. 976.
20141(b)	45:431(r)(3).	
20141(c)	45:431(r)(4).	

Statutory Notes and Related Subsidiaries

STUDY AND TESTING OF ELECTRONICALLY CONTROLLED PNEUMATIC BRAKES

Pub. L. 114–94, div. A, title VII, §7311, Dec. 4, 2015, 129 Stat. 1601, provided that:

“(a) GOVERNMENT ACCOUNTABILITY OFFICE STUDY.—

“(1) IN GENERAL.—The Comptroller General of the United States shall conduct an independent evaluation of ECP brake systems, pilot program data, and the Department [of Transportation]’s research and analysis on the costs, benefits, and effects of ECP brake systems.

“(2) STUDY ELEMENTS.—In completing the independent evaluation under paragraph (1), the Comptroller General shall examine the following issues related to ECP brake systems:

“(A) Data and modeling results on safety benefits relative to conventional brakes and to other braking technologies or systems, such as distributed power and 2-way end-of-train devices.

“(B) Data and modeling results on business benefits, including the effects of dynamic braking.

“(C) Data on costs, including up-front capital costs and on-going maintenance costs.

“(D) Analysis of potential operational benefits and challenges, including the effects of potential locomotive and car segregation, technical reliability issues, and network disruptions.

“(E) Analysis of potential implementation challenges, including installation time, positive train control integration complexities, component availability issues, and tank car shop capabilities.

“(F) Analysis of international experiences with the use of advanced braking technologies.

“(3) REPORT.—Not later than 18 months after the date of enactment of this Act [Dec. 4, 2015], the Comptroller General 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 on the results of the independent evaluation under paragraph (1).

“(b) EMERGENCY BRAKING APPLICATION TESTING.—

“(1) IN GENERAL.—The Secretary [of Transportation] shall enter into an agreement with the National Academy of Sciences to—

“(A) complete testing of ECP brake systems during emergency braking application, including more than 1 scenario involving the uncoupling of a train with 70 or more DOT–117 specification or DOT–117R specification tank cars; and

“(B) transmit, not later than 18 months after the date of enactment of this Act, 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 on the results of the testing.

“(2) INDEPENDENT EXPERTS.—In completing the testing under paragraph (1)(A), the National Academy of Sciences may contract with 1 or more engineering or rail experts, as appropriate, that—

“(A) are not railroad carriers, entities funded by such carriers, or entities directly impacted by the final rule issued on May 8, 2015, entitled “Enhanced Tank Car Standards and Operational Controls for High-Hazard Flammable Trains” (80 Fed. Reg. 26643); and

“(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 Trans-

portation 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 attention 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

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
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.

Editorial Notes

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).

Statutory Notes and Related Subsidiaries

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 Sec-

retary 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 subsection (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 toe load 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 infor-

mation 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 visibility 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

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
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

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
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 this Act, amend part 218 of title 49, Code of Federal Regulations” because the regulations to carry out this section have been prescribed.

§ 20145. Report on bridge displacement detection systems

Not later than 18 months after November 2, 1994, the Secretary of Transportation 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 concerning any action that has been taken by the Secretary on railroad bridge displacement detection systems.

(Added Pub. L. 103–440, title II, §207(a), Nov. 2, 1994, 108 Stat. 4621; amended Pub. L. 104–287, §5(48), (49), Oct. 11, 1996, 110 Stat. 3393.)

Editorial Notes

AMENDMENTS

1996—Pub. L. 104–287 substituted “November 2, 1994” for “the date of enactment of the Federal Railroad Safety Authorization Act of 1994” and “Committee on Transportation and Infrastructure” for “Committee on Energy and Commerce”.

§ 20146. Institute for Railroad Safety

The Secretary of Transportation, in conjunction with a university or college having expertise in transportation safety, shall establish, within one year after November 2, 1994, an Institute for Railroad Safety. The Institute shall research, develop, fund, and test measures for reducing the number of fatalities and injuries relevant to railroad operations. There are authorized to be appropriated to the Secretary \$1,000,000 for each of the fiscal years 1996 through 2000 to fund activities carried out under this section by the Institute, which shall report at least once each year on its use of such funds in carrying out such activities and the results

thereof to the Secretary of Transportation and the Congress.

(Added Pub. L. 103-440, title II, § 210(a), Nov. 2, 1994, 108 Stat. 4621; amended Pub. L. 104-287, § 5(49), Oct. 11, 1996, 110 Stat. 3393.)

Editorial Notes

AMENDMENTS

1996—Pub. L. 104-287 substituted “November 2, 1994” for “the date of enactment of the Federal Railroad Safety Authorization Act of 1994”.

§ 20147. Warning of civil liability

The Secretary of Transportation shall encourage railroad carriers to warn the public about potential liability for violation of regulations related to vandalism of railroad signs, devices, and equipment and to trespassing on railroad property.

(Added Pub. L. 103-440, title II, § 211(a), Nov. 2, 1994, 108 Stat. 4622.)

§ 20148. Railroad car visibility

(a) REVIEW OF RULES.—The Secretary of Transportation shall conduct a review of the Department of Transportation’s rules with respect to railroad car visibility. As part of this review, the Secretary shall collect relevant data from operational experience by railroads having enhanced visibility measures in service.

(b) REGULATIONS.—If the review conducted under subsection (a) establishes that enhanced railroad car visibility would likely improve safety in a cost-effective manner, the Secretary shall initiate a rulemaking proceeding to prescribe regulations requiring enhanced visibility standards for newly manufactured and remanufactured railroad cars. In such proceeding the Secretary shall consider, at a minimum—

- (1) visibility of railroad cars from the perspective of nonrailroad traffic;
- (2) whether certain railroad car paint colors should be prohibited or required;
- (3) the use of reflective materials;
- (4) the visibility of lettering on railroad cars;
- (5) the effect of any enhanced visibility measures on the health and safety of train crew members; and
- (6) the cost/benefit ratio of any new regulations.

(c) EXCLUSIONS.—In prescribing regulations under subsection (b), the Secretary may exclude from any specific visibility requirement any category of trains or railroad operations if the Secretary determines that such an exclusion is in the public interest and is consistent with railroad safety.

(Added Pub. L. 103-440, title II, § 212(a), Nov. 2, 1994, 108 Stat. 4622.)

§ 20149. Coordination with the Department of Labor

The Secretary of Transportation shall consult with the Secretary of Labor on a regular basis to ensure that all applicable laws affecting safe working conditions for railroad employees are appropriately enforced to ensure a safe and pro-

ductive working environment for the railroad industry.

(Added Pub. L. 103-440, title II, § 213(a), Nov. 2, 1994, 108 Stat. 4623.)

§ 20150. Positive train control system progress report

The Secretary of Transportation shall submit a report to the Congress on the development, deployment, and demonstration of positive train control systems by December 31, 1995.

(Added Pub. L. 103-440, title II, § 214(a), Nov. 2, 1994, 108 Stat. 4623.)

§ 20151. Railroad trespassing, vandalism, and highway-rail grade crossing warning sign violation prevention strategy

(a) EVALUATION OF EXISTING LAWS.—In consultation with affected parties, the Secretary of Transportation shall evaluate and review current local, State, and Federal laws regarding trespassing on railroad property, vandalism affecting railroad safety, and violations of highway-rail grade crossing signs, signals, markings, or other warning devices and develop model prevention strategies and enforcement laws to be used for the consideration of State and local legislatures and governmental entities. The first such evaluation and review shall be completed within 1 year after the date of enactment of the Rail Safety Improvement Act of 2008. The Secretary shall revise the model prevention strategies and enforcement codes periodically.

(b) OUTREACH PROGRAM FOR TRESPASSING AND VANDALISM PREVENTION.—The Secretary shall develop and maintain a comprehensive outreach program to improve communications among Federal railroad safety inspectors, State inspectors certified by the Federal Railroad Administration, railroad police, and State and local law enforcement officers, for the purpose of addressing trespassing and vandalism problems on railroad property, and strengthening relevant enforcement strategies. This program shall be designed to increase public and police awareness of the illegality of, dangers inherent in, and the extent of, trespassing on railroad rights-of-way, to develop strategies to improve the prevention of trespassing and vandalism, and to improve the enforcement of laws relating to railroad trespass, vandalism, and safety.

(c) MODEL LEGISLATION.—(1) Within 18 months after November 2, 1994, the Secretary, after consultation with State and local governments and railroad carriers, shall develop and make available to State and local governments model State legislation providing for—

(A) civil or criminal penalties, or both, for vandalism of railroad equipment or property which could affect the safety of the public or of railroad employees; and

(B) civil or criminal penalties, or both, for trespassing on a railroad owned or leased right-of-way.

(2) Not later than 18 months after the date of enactment of the Rail Safety Improvement Act of 2008, the Secretary, after consultation with State and local governments and railroad carriers, shall develop and make available to State

and local governments model State legislation providing for civil or criminal penalties, or both, for violations of highway-rail grade crossing signs, signals, markings, or other warning devices.

(d) DEFINITION.—In this section, the term “violation of highway-rail grade crossing signs, signals, markings, or other warning devices” includes any action by a motorist, unless directed by an authorized safety officer—

(1) to drive around a grade crossing gate in a position intended to block passage over railroad tracks;

(2) to drive through a flashing grade crossing signal;

(3) to drive through a grade crossing with passive warning signs without ensuring that the grade crossing could be safely crossed before any train arrived; and

(4) in the vicinity of a grade crossing, who creates a hazard of an accident involving injury or property damage at the grade crossing.

(Added Pub. L. 103-440, title II, §219(a), Nov. 2, 1994, 108 Stat. 4625; amended Pub. L. 104-287, §5(49), Oct. 11, 1996, 110 Stat. 3393; Pub. L. 110-432, div. A, title II, §208(a), Oct. 16, 2008, 122 Stat. 4875.)

Editorial Notes

REFERENCES IN TEXT

The date of enactment of the Rail Safety Improvement Act of 2008, referred to in subsecs. (a) and (c)(2), is the date of enactment of div. A of Pub. L. 110-432, which was approved Oct. 16, 2008.

AMENDMENTS

2008—Pub. L. 110-432, §208(a)(1), substituted “Railroad trespassing, vandalism, and highway-rail grade crossing warning sign violation prevention strategy” for “Railroad trespassing and vandalism prevention strategy” in section catchline.

Subsec. (a). Pub. L. 110-432, §208(a)(2), added subsec. (a) and struck out former subsec. (a). Prior to amendment, text read as follows: “In consultation with affected parties, the Secretary of Transportation shall evaluate and review current local, State, and Federal laws regarding trespassing on railroad property and vandalism affecting railroad safety, and develop model prevention strategies and enforcement laws to be used for the consideration of State and local legislatures and governmental entities. The first such evaluation and review shall be completed within 1 year after November 2, 1994. The Secretary shall revise such model prevention strategies and enforcement codes periodically.”

Subsec. (b). Pub. L. 110-432, §208(a)(3), inserted “for Trespassing and Vandalism Prevention” after “Outreach Program” in heading.

Subsec. (c). Pub. L. 110-432, §208(a)(4), designated existing provisions as par. (1), redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, of par. (1), and added par. (2).

Subsec. (d). Pub. L. 110-432, §208(a)(5), added subsec. (d).

1996—Subsecs. (a), (c). Pub. L. 104-287 substituted “November 2, 1994” for “the date of enactment of the Federal Railroad Safety Authorization Act of 1994”.

§ 20152. Notification of grade crossing problems

(a) IN GENERAL.—Not later than 18 months after the date of enactment of the Rail Safety Improvement Act of 2008, the Secretary of Transportation shall require each railroad carrier to—

(1) establish and maintain a toll-free telephone service for rights-of-way over which it dispatches trains, to directly receive calls reporting—

(A) malfunctions of signals, crossing gates, and other devices to promote safety at the grade crossing of railroad tracks on those rights-of-way and public or private roads;

(B) disabled vehicles blocking railroad tracks at such grade crossings;

(C) obstructions to the view of a pedestrian or a vehicle operator for a reasonable distance in either direction of a train’s approach; or

(D) other safety information involving such grade crossings;

(2) upon receiving a report pursuant to paragraph (1)(A) or (B), immediately contact trains operating near the grade crossing to warn them of the malfunction or disabled vehicle;

(3) upon receiving a report pursuant to paragraph (1)(A) or (B), and after contacting trains pursuant to paragraph (2), contact, as necessary, appropriate public safety officials having jurisdiction over the grade crossing to provide them with the information necessary for them to direct traffic, assist in the removal of the disabled vehicle, or carry out other activities as appropriate;

(4) upon receiving a report pursuant to paragraph (1)(C) or (D), timely investigate the report, remove the obstruction if possible, or correct the unsafe circumstance; and

(5) ensure the placement at each grade crossing on rights-of-way that it owns of appropriately located signs, on which shall appear, at a minimum—

(A) a toll-free telephone number to be used for placing calls described in paragraph (1) to the railroad carrier dispatching trains on that right-of-way;

(B) an explanation of the purpose of that toll-free telephone number; and

(C) the grade crossing number assigned for that crossing by the National Highway-Rail Crossing Inventory established by the Department of Transportation.

(b) WAIVER.—The Secretary may waive the requirement that the telephone service be toll-free for Class II and Class III rail carriers if the Secretary determines that toll-free service would be cost prohibitive or unnecessary.

(Added Pub. L. 103-440, title III, §301(a), Nov. 2, 1994, 108 Stat. 4626; amended Pub. L. 104-287, §5(50), Oct. 11, 1996, 110 Stat. 3393; Pub. L. 110-432, div. A, title II, §205(a), Oct. 16, 2008, 122 Stat. 4872.)

Editorial Notes

REFERENCES IN TEXT

The date of enactment of the Rail Safety Improvement Act of 2008, referred to in subsec. (a), is the date of enactment of div. A of Pub. L. 110-432, which was approved Oct. 16, 2008.

AMENDMENTS

2008—Pub. L. 110-432 amended section catchline and text generally. Prior to amendment, section related to a pilot program to demonstrate a system to provide emergency notification of grade crossing problems.

1996—Subsec. (b). Pub. L. 104-287 substituted “November 2, 1994” for “the date of enactment of this section” and “November 2, 1994, an evaluation” for “that date an evaluation”.

§ 20153. Audible warnings at highway-rail grade crossings

(a) DEFINITIONS.—As used in this section—

(1) the term “highway-rail grade crossing” includes any street or highway crossing over a line of railroad at grade;

(2) the term “locomotive horn” refers to a train-borne audible warning device meeting standards specified by the Secretary of Transportation; and

(3) the term “supplementary safety measure” refers to a safety system or procedure, provided by the appropriate traffic control authority or law enforcement authority responsible for safety at the highway-rail grade crossing, that is determined by the Secretary to be an effective substitute for the locomotive horn in the prevention of highway-rail casualties. A traffic control arrangement that prevents careless movement over the crossing (e.g., as where adequate median barriers prevent movement around crossing gates extending over the full width of the lanes in the particular direction of travel), and that conforms to standards prescribed by the Secretary under this subsection, shall be deemed to constitute a supplementary safety measure. The following do not, individually or in combination, constitute supplementary safety measures within the meaning of this subsection: standard traffic control devices or arrangements such as reflectorized crossbucks, stop signs, flashing lights, flashing lights with gates that do not completely block travel over the line of railroad, or traffic signals.

(b) REQUIREMENT.—The Secretary of Transportation shall prescribe regulations requiring that a locomotive horn shall be sounded while each train is approaching and entering upon each public highway-rail grade crossing.

(c) EXCEPTION.—(1) In issuing such regulations, the Secretary may except from the requirement to sound the locomotive horn any categories of rail operations or categories of highway-rail grade crossings (by train speed or other factors specified by regulation)—

(A) that the Secretary determines not to present a significant risk with respect to loss of life or serious personal injury;

(B) for which use of the locomotive horn as a warning measure is impractical; or

(C) for which, in the judgment of the Secretary, supplementary safety measures fully compensate for the absence of the warning provided by the locomotive horn.

(2) In order to provide for safety and the quiet of communities affected by train operations, the Secretary may specify in such regulations that any supplementary safety measures must be applied to all highway-rail grade crossings within a specified distance along the railroad in order to be excepted from the requirement of this section.

(d) APPLICATION FOR WAIVER OR EXEMPTION.—Notwithstanding any other provision of this sub-

chapter, the Secretary may not entertain an application for waiver or exemption of the regulations issued under this section unless such application shall have been submitted jointly by the railroad carrier owning, or controlling operations over, the crossing and by the appropriate traffic control authority or law enforcement authority. The Secretary shall not grant any such application unless, in the judgment of the Secretary, the application demonstrates that the safety of highway users will not be diminished.

(e) DEVELOPMENT OF SUPPLEMENTARY SAFETY MEASURES.—(1) In order to promote the quiet of communities affected by rail operations and the development of innovative safety measures at highway-rail grade crossings, the Secretary may, in connection with demonstration of proposed new supplementary safety measures, order railroad carriers operating over one or more crossings to cease temporarily the sounding of locomotive horns at such crossings. Any such measures shall have been subject to testing and evaluation and deemed necessary by the Secretary prior to actual use in lieu of the locomotive horn.

(2) The Secretary may include in regulations issued under this subsection special procedures for approval of new supplementary safety measures meeting the requirements of subsection (c)(1) of this section following successful demonstration of those measures.

(f) SPECIFIC RULES.—The Secretary may, by regulation, provide that the following crossings over railroad lines shall be subject, in whole or in part, to the regulations required under this section:

(1) Private highway-rail grade crossings.

(2) Pedestrian crossings.

(3) Crossings utilized primarily by non-motorized vehicles and other special vehicles.

Regulations issued under this subsection shall not apply to any location where persons are not authorized to cross the railroad.

(g) ISSUANCE.—The Secretary shall issue regulations required by this section pertaining to categories of highway-rail grade crossings that in the judgment of the Secretary pose the greatest safety hazard to rail and highway users not later than 24 months following November 2, 1994. The Secretary shall issue regulations pertaining to any other categories of crossings not later than 48 months following November 2, 1994.

(h) IMPACT OF REGULATIONS.—The Secretary shall include in regulations prescribed under this section a concise statement of the impact of such regulations with respect to the operation of section 20106 of this title (national uniformity of regulation).

(i) REGULATIONS.—In issuing regulations under this section, the Secretary—

(1) shall take into account the interest of communities that—

(A) have in effect restrictions on the sounding of a locomotive horn at highway-rail grade crossings; or

(B) have not been subject to the routine (as defined by the Secretary) sounding of a locomotive horn at highway-rail grade crossings;

(2) shall work in partnership with affected communities to provide technical assistance

and shall provide a reasonable amount of time for local communities to install supplementary safety measures, taking into account local safety initiatives (such as public awareness initiatives and highway-rail grade crossing traffic law enforcement programs) subject to such terms and conditions as the Secretary deems necessary, to protect public safety; and

(3) may waive (in whole or in part) any requirement of this section (other than a requirement of this subsection or subsection (j)) that the Secretary determines is not likely to contribute significantly to public safety.

(j) **EFFECTIVE DATE OF REGULATIONS.**—Any regulations under this section shall not take effect before the 365th day following the date of publication of the final rule.

(Added Pub. L. 103-440, title III, §302(a), Nov. 2, 1994, 108 Stat. 4626; amended Pub. L. 104-264, title XII, §1218(a), Oct. 9, 1996, 110 Stat. 3285; Pub. L. 104-287, §5(51), Oct. 11, 1996, 110 Stat. 3393.)

Editorial Notes

AMENDMENTS

1996—Subsec. (g). Pub. L. 104-287 substituted “November 2, 1994” for “the date of enactment of this section” in two places.

Subsecs. (i), (j). Pub. L. 104-264 added subsecs. (i) and (j).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104-264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104-264, set out as a note under section 106 of this title.

[§ 20154. Repealed. Pub. L. 114-94, div. A, title XI, § 11301(c)(1), Dec. 4, 2015, 129 Stat. 1648]

Section, Pub. L. 109-59, title IX, §9002(a)(1), Aug. 10, 2005, 119 Stat. 1919, related to capital grants for rail line relocation projects.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF REPEAL

Repeal by Pub. L. 114-94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114-94, set out as an Effective Date of 2015 Amendment note under section 5313 of Title 5, Government Organization and Employees.

REGULATIONS

Pub. L. 109-59, title IX, §9002(b), Aug. 10, 2005, 119 Stat. 1921, required Secretary of Transportation to issue temporary regulations to implement grant program under this section by April 1, 2006, and to issue final regulations by October 1, 2006.

§ 20155. Tank cars

(a) **STANDARDS.**—The Federal Railroad Administration shall—

(1) validate a predictive model to quantify the relevant dynamic forces acting on railroad tank cars under accident conditions within 1 year after the date of enactment of this section; and

(2) initiate a rulemaking to develop and implement appropriate design standards for pres-

surized tank cars within 18 months after the date of enactment of this section.

(b) **OLDER TANK CAR IMPACT RESISTANCE ANALYSIS AND REPORT.**—Within 1 year after the date of enactment of this section the Federal Railroad Administration shall conduct a comprehensive analysis to determine the impact resistance of the steels in the shells of pressure tank cars constructed before 1989. Within 6 months after completing that analysis the Administration shall transmit a report, including recommendations for reducing any risk of catastrophic fracture and separation of such cars, to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(Added Pub. L. 109-59, title IX, §9005(b)(1), Aug. 10, 2005, 119 Stat. 1924.)

Editorial Notes

REFERENCES IN TEXT

The date of enactment of this section, referred to in text, is the date of enactment of Pub. L. 109-59, which was approved Aug. 10, 2005.

Statutory Notes and Related Subsidiaries

PHASE-OUT OF ALL TANK CARS USED TO TRANSPORT CLASS 3 FLAMMABLE LIQUIDS

Pub. L. 114-94, div. A, title VII, §7304, Dec. 4, 2015, 129 Stat. 1596, provided that:

“(a) **IN GENERAL.**—Except as provided for in subsection (b), beginning on the date of enactment of this Act [Dec. 4, 2015], all DOT-111 specification railroad tank cars used to transport Class 3 flammable liquids shall meet the DOT-117, DOT-117P, or DOT-117R specifications in part 179 of title 49, Code of Federal Regulations, regardless of train composition.

“(b) **PHASE-OUT SCHEDULE.**—Certain tank cars not meeting DOT-117, DOT-117P, or DOT-117R specifications on the date of enactment of this Act may be used, regardless of train composition, until the following end-dates:

“(1) For transport of unrefined petroleum products in Class 3 flammable service, including crude oil—

“(A) January 1, 2018, for non-jacketed DOT-111 tank cars;

“(B) March 1, 2018, for jacketed DOT-111 tank cars;

“(C) April 1, 2020, for non-jacketed CPC-1232 tank cars; and

“(D) May 1, 2025, for jacketed CPC-1232 tank cars.

“(2) For transport of ethanol—

“(A) May 1, 2023, for non-jacketed and jacketed DOT-111 tank cars;

“(B) July 1, 2023, for non-jacketed CPC-1232 tank cars; and

“(C) May 1, 2025, for jacketed CPC-1232 tank cars.

“(3) For transport of Class 3 flammable liquids in Packing Group I, other than Class 3 flammable liquids specified in paragraphs (1) and (2), May 1, 2025.

“(4) For transport of Class 3 flammable liquids in Packing Groups II and III, other than Class 3 flammable liquids specified in paragraphs (1) and (2), May 1, 2029.

“(c) **RETROFITTING SHOP CAPACITY.**—The Secretary [of Transportation] may extend the deadlines established under paragraphs (3) and (4) of subsection (b) for a period not to exceed 2 years if the Secretary determines that insufficient retrofitting shop capacity will prevent the phase-out of tank cars not meeting the DOT-117, DOT-117P, or DOT-117R specifications by the deadlines set forth in such paragraphs.

“(d) CONFORMING REGULATORY AMENDMENTS.—

“(1) IN GENERAL.—Immediately after the date of enactment of this section [Dec. 4, 2015], the Secretary—

“(A) shall remove or revise the date-specific deadlines in any applicable regulations or orders to the extent necessary to conform with the requirements of this section; and

“(B) may not enforce any such date-specific deadlines or requirements that are inconsistent with the requirements of this section.

“(2) IMPLEMENTATION.—Nothing in this section shall be construed to require the Secretary to issue regulations, except as required under paragraph (1), to implement this section.

“(e) SAVINGS CLAUSE.—Nothing in this section shall be construed to prohibit the Secretary from implementing the final rule issued on May 08, 2015, entitled ‘Enhanced Tank Car Standards and Operational Controls for High-Hazard Flammable Trains’ (80 Fed. Reg. 26643), other than the provisions of the final rule that are inconsistent with this section.

“(f) CLASS 3 FLAMMABLE LIQUID DEFINED.—In this section, 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.”

THERMAL BLANKETS

Pub. L. 114-94, div. A, title VII, § 7305, Dec. 4, 2015, 129 Stat. 1597, provided that:

“(a) REQUIREMENTS.—Not later than 180 days after the date of enactment of this Act [Dec. 4, 2015], the Secretary [of Transportation] shall issue such regulations as are necessary to require that each tank car built to meet the DOT-117 specification and each non-jacketed tank car modified to meet the DOT-117R specification be equipped with an insulating blanket with at least ½-inch-thick material that has been approved by the Secretary pursuant to section 179.18(c) of title 49, Code of Federal Regulations.

“(b) SAVINGS CLAUSE.—Nothing in this section shall prohibit the Secretary from approving new or alternative technologies or materials as they become available that provide a level of safety at least equivalent to the level of safety provided for under subsection (a).”

MODIFICATION REPORTING

Pub. L. 114-94, div. A, title VII, § 7308, Dec. 4, 2015, 129 Stat. 1599, as amended by Pub. L. 115-435, title III, § 302(c)(5), Jan. 14, 2019, 132 Stat. 5553, provided that:

“(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [Dec. 4, 2015], the Secretary [of Transportation] shall implement a reporting requirement to monitor industry-wide progress toward modifying rail tank cars used to transport Class 3 flammable liquids by the applicable deadlines established in section 7304 [set out as a note above].

“(b) TANK CAR DATA.—The Secretary shall collect data from shippers and rail tank car owners on—

“(1) the total number of tank cars modified to meet the DOT-117R specification, or equivalent, specifying—

“(A) the type or specification of each tank car before it was modified, including non-jacketed DOT-111, jacketed DOT-111, non-jacketed DOT-111 meeting the CPC-1232 standard, or jacketed DOT-111 meeting the CPC-1232 standard; and

“(B) the identification number of each Class 3 flammable liquid carried by each tank car in the past year;

“(2) the total number of tank cars built to meet the DOT-117 specification, or equivalent; and

“(3) the total number of tank cars used or likely to be used to transport Class 3 flammable liquids that have not been modified, specifying—

“(A) the type or specification of each tank car not modified, including the non-jacketed DOT-111, jacketed DOT-111, non-jacketed DOT-111 meeting the CPC-1232 standard, or jacketed DOT-111 meeting the CPC-1232 standard; and

“(B) the identification number of each Class 3 flammable liquid carried by each tank car in the past year.

“(c) TANK CAR SHOP DATA.—The Secretary shall conduct a survey of tank car facilities modifying tank cars to the DOT-117R specification, or equivalent, or building new tank cars to the DOT-117 specification, or equivalent, to generate statistically-valid estimates of the anticipated number of tank cars those facilities expect to modify to DOT-117R specification, or equivalent, or build to the DOT-117 specification, or equivalent.

“(d) FREQUENCY.—The Secretary shall collect the data under subsection (b) and conduct the survey under subsection (c) annually until May 1, 2029.

“(e) INFORMATION PROTECTIONS.—

“(1) IN GENERAL.—The Secretary shall only report data in industry-wide totals and shall treat company-specific information as confidential business information.

“(2) LEVEL OF CONFIDENTIALITY.—The Secretary shall ensure the data collected under subsection (b) and the survey data under subsection (c) have the same level of confidentiality as required by section 3572 of title 44, United States Code, as administered by the Bureau of Transportation Statistics.

“(3) DESIGNEE.—The Secretary may—

“(A) designate the Director of the Bureau of Transportation Statistics to collect data under subsection (b) and the survey data under subsection (c); and

“(B) direct the Director to ensure the confidentiality of company-specific information to the maximum extent permitted by law.

“(f) REPORT.—Each year, not later than 60 days after the date that both the collection of the data under subsection (b) and the survey under subsection (c) are complete, the Secretary shall submit a written report on the aggregate results, without company-specific information, to—

“(1) the Committee on Commerce, Science, and Transportation of the Senate; and

“(2) the Committee on Transportation and Infrastructure of the House of Representatives.

“(g) DEFINITION OF CLASS 3 FLAMMABLE LIQUID.—In this section, the term ‘Class 3 flammable liquid’ has the meaning given the term flammable liquid in section 173.120 of title 49, Code of Federal Regulations.”

§ 20156. Railroad safety risk reduction program

(a) IN GENERAL.—

(1) PROGRAM REQUIREMENT.—Not later than 4 years after the date of enactment of the Rail Safety Improvement Act of 2008, the Secretary of Transportation, by regulation, shall require each railroad carrier that is a Class I railroad, a railroad carrier that has inadequate safety performance (as determined by the Secretary), or a railroad carrier that provides intercity rail passenger or commuter rail passenger transportation—

(A) to develop a railroad safety risk reduction program under subsection (d) that systematically evaluates railroad safety risks on its system and manages those risks in order to reduce the numbers and rates of railroad accidents, incidents, injuries, and fatalities;

(B) to submit its program, including any required plans, to the Secretary for review and approval; and

(C) to implement the program and plans approved by the Secretary.

(2) RELIANCE ON PILOT PROGRAM.—The Secretary may conduct behavior-based safety and other research, including pilot programs, be-

fore promulgating regulations under this subsection and thereafter. The Secretary shall use any information and experience gathered through such research and pilot programs under this subsection in developing regulations under this section.

(3) REVIEW AND APPROVAL.—The Secretary shall review and approve or disapprove railroad safety risk reduction program plans within a reasonable period of time. If the proposed plan is not approved, the Secretary shall notify the affected railroad carrier as to the specific areas in which the proposed plan is deficient, and the railroad carrier shall correct all deficiencies within a reasonable period of time following receipt of written notice from the Secretary. The Secretary shall annually conduct a review to ensure that the railroad carriers are complying with their plans.

(4) VOLUNTARY COMPLIANCE.—A railroad carrier that is not required to submit a railroad safety risk reduction program under this section may voluntarily submit a program that meets the requirements of this section to the Secretary. The Secretary shall approve or disapprove any program submitted under this paragraph.

(b) CERTIFICATION.—The chief official responsible for safety of each railroad carrier required to submit a railroad safety risk reduction program under subsection (a) shall certify that the contents of the program are accurate and that the railroad carrier will implement the contents of the program as approved by the Secretary.

(c) RISK ANALYSIS.—In developing its railroad safety risk reduction program, each railroad carrier required to submit such a program pursuant to subsection (a) shall identify and analyze the aspects of its railroad, including operating rules and practices, infrastructure, equipment, employee levels and schedules, safety culture, management structure, employee training, and other matters, including those not covered by railroad safety regulations or other Federal regulations, that impact railroad safety.

(d) PROGRAM ELEMENTS.—

(1) IN GENERAL.—Each railroad carrier required to submit a railroad safety risk reduction program under subsection (a) shall develop a comprehensive safety risk reduction program to improve safety by reducing the number and rates of accidents, incidents, injuries, and fatalities that is based on the risk analysis required by subsection (c) through—

(A) the mitigation of aspects that increase risks to railroad safety; and

(B) the enhancement of aspects that decrease risks to railroad safety.

(2) REQUIRED COMPONENTS.—Each railroad carrier's safety risk reduction program shall include a risk mitigation plan in accordance with this section, a technology implementation plan that meets the requirements of subsection (e), and a fatigue management plan that meets the requirements of subsection (f).

(e) TECHNOLOGY IMPLEMENTATION PLAN.—

(1) IN GENERAL.—As part of its railroad safety risk reduction program, a railroad carrier required to submit a railroad safety risk reduction program under subsection (a) shall de-

velop, and periodically update as necessary, a 10-year technology implementation plan that describes the railroad carrier's plan for development, adoption, implementation, maintenance, and use of current, new, or novel technologies on its system over a 10-year period to reduce safety risks identified under the railroad safety risk reduction program. Any updates to the plan are subject to review and approval by the Secretary.

(2) TECHNOLOGY ANALYSIS.—A railroad carrier's technology implementation plan shall include an analysis of the safety impact, feasibility, and cost and benefits of implementing technologies, including processor-based technologies, positive train control systems (as defined in section 20157(i)), electronically controlled pneumatic brakes, rail integrity inspection systems, rail integrity warning systems, switch position monitors and indicators, trespasser prevention technology, highway-rail grade crossing technology, and other new or novel railroad safety technology, as appropriate, that may mitigate risks to railroad safety identified in the risk analysis required by subsection (c).

(3) IMPLEMENTATION SCHEDULE.—A railroad carrier's technology implementation plan shall contain a prioritized implementation schedule for the development, adoption, implementation, and use of current, new, or novel technologies on its system to reduce safety risks identified under the railroad safety risk reduction program.

(4) POSITIVE TRAIN CONTROL.—Except as required by section 20157 (relating to the requirements for implementation of positive train control systems), the Secretary shall ensure that—

(A) each railroad carrier's technology implementation plan required under paragraph (1) that includes a schedule for implementation of a positive train control system complies with that schedule; and

(B) each railroad carrier required to submit such a plan implements a positive train control system pursuant to such plan by December 31, 2018.

(f) FATIGUE MANAGEMENT PLAN.—

(1) IN GENERAL.—As part of its railroad safety risk reduction program, a railroad carrier required to submit a railroad safety risk reduction program under subsection (a) shall develop and update at least once every 2 years a fatigue management plan that is designed to reduce the fatigue experienced by safety-related railroad employees and to reduce the likelihood of accidents, incidents, injuries, and fatalities caused by fatigue. Any such update shall be subject to review and approval by the Secretary.

(2) TARGETED FATIGUE COUNTERMEASURES.—A railroad carrier's fatigue management plan shall take into account the varying circumstances of operations by the railroad on different parts of its system, and shall prescribe appropriate fatigue countermeasures to address those varying circumstances.

(3) ADDITIONAL ELEMENTS.—A railroad shall consider the need to include in its fatigue management plan elements addressing each of the following items, as applicable:

(A) Employee education and training on the physiological and human factors that affect fatigue, as well as strategies to reduce or mitigate the effects of fatigue, based on the most current scientific and medical research and literature.

(B) Opportunities for identification, diagnosis, and treatment of any medical condition that may affect alertness or fatigue, including sleep disorders.

(C) Effects on employee fatigue of an employee's short-term or sustained response to emergency situations, such as derailments and natural disasters, or engagement in other intensive working conditions.

(D) Scheduling practices for employees, including innovative scheduling practices, on-duty call practices, work and rest cycles, increased consecutive days off for employees, changes in shift patterns, appropriate scheduling practices for varying types of work, and other aspects of employee scheduling that would reduce employee fatigue and cumulative sleep loss.

(E) Methods to minimize accidents and incidents that occur as a result of working at times when scientific and medical research have shown increased fatigue disrupts employees' circadian rhythm.

(F) Alertness strategies, such as policies on napping, to address acute drowsiness and fatigue while an employee is on duty.

(G) Opportunities to obtain restful sleep at lodging facilities, including employee sleeping quarters provided by the railroad carrier.

(H) The increase of the number of consecutive hours of off-duty rest, during which an employee receives no communication from the employing railroad carrier or its managers, supervisors, officers, or agents.

(I) Avoidance of abrupt changes in rest cycles for employees.

(J) Additional elements that the Secretary considers appropriate.

(g) CONSENSUS.—

(1) IN GENERAL.—Each railroad carrier required to submit a railroad safety risk reduction program under subsection (a) shall consult with, employ good faith, and use its best efforts to reach agreement with, all of its directly affected employees, including any nonprofit employee labor organization representing a class or craft of directly affected employees of the railroad carrier, on the contents of the safety risk reduction program.

(2) STATEMENT.—If the railroad carrier and its directly affected employees, including any nonprofit employee labor organization representing a class or craft of directly affected employees of the railroad carrier, cannot reach consensus on the proposed contents of the plan, then directly affected employees and such organization may file a statement with the Secretary explaining their views on the plan on which consensus was not reached. The Secretary shall consider such views during review and approval of the program.

(h) ENFORCEMENT.—The Secretary shall have the authority to assess civil penalties pursuant

to chapter 213 for a violation of this section, including the failure to submit, certify, or comply with a safety risk reduction program, risk mitigation plan, technology implementation plan, or fatigue management plan.

(Added Pub. L. 110-432, div. A, title I, §103(a), Oct. 16, 2008, 122 Stat. 4853; amended Pub. L. 114-94, div. A, title XI, §11316(e), Dec. 4, 2015, 129 Stat. 1676.)

Editorial Notes

REFERENCES IN TEXT

The date of enactment of the Rail Safety Improvement Act of 2008, referred to in subsec. (a)(1), is the date of enactment of div. A of Pub. L. 110-432, which was approved Oct. 16, 2008.

AMENDMENTS

2015—Subsec. (c). Pub. L. 114-94, §11316(e)(1), inserted comma after “In developing its railroad safety risk reduction program”.

Subsec. (g)(1). Pub. L. 114-94, §11316(e)(2), inserted comma after “good faith” and substituted “nonprofit” for “non-profit”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114-94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

§ 20157. Implementation of positive train control systems

(a) IN GENERAL.—

(1) PLAN REQUIRED.—Not later than 90 days after the date of enactment of the Positive Train Control Enforcement and Implementation Act of 2015, each Class I railroad carrier and each entity providing regularly scheduled intercity or commuter rail passenger transportation shall submit to the Secretary of Transportation a revised plan for implementing a positive train control system by December 31, 2018, governing operations on—

(A) its main line over which intercity rail passenger transportation or commuter rail passenger transportation, as defined in section 24102, is regularly provided;

(B) its main line over which poison- or toxic-by-inhalation hazardous materials, as defined in sections 171.8, 173.115, and 173.132 of title 49, Code of Federal Regulations, are transported; and

(C) such other tracks as the Secretary may prescribe by regulation or order.

(2) IMPLEMENTATION.—

(A) CONTENTS OF REVISED PLAN.—A revised plan required under paragraph (1) shall—

(i) describe—

(I) how the positive train control system will provide for interoperability of the system with the movements of trains of other railroad carriers over its lines; and

(II) how, to the extent practical, the positive train control system will be implemented in a manner that addresses areas of greater risk before areas of lesser risk;

(ii) comply with the positive train control system implementation plan content requirements under section 236.1011 of title 49, Code of Federal Regulations; and

(iii) provide—

(I) the calendar year or years in which spectrum will be acquired and will be available for use in each area as needed for positive train control system implementation, if such spectrum is not already acquired and available for use;

(II) the total amount of positive train control system hardware that will be installed for implementation, with totals separated by each major hardware category;

(III) the total amount of positive train control system hardware that will be installed by the end of each calendar year until the positive train control system is implemented, with totals separated by each hardware category;

(IV) the total number of employees required to receive training under the applicable positive train control system regulations;

(V) the total number of employees that will receive the training, as required under the applicable positive train control system regulations, by the end of each calendar year until the positive train control system is implemented;

(VI) a summary of any remaining technical, programmatic, operational, or other challenges to the implementation of a positive train control system, including challenges with—

(aa) availability of public funding;

(bb) interoperability;

(cc) spectrum;

(dd) software;

(ee) permitting; and

(ff) testing, demonstration, and certification; and

(VII) a schedule and sequence for implementing a positive train control system by the deadline established under paragraph (1).

(B) **ALTERNATIVE SCHEDULE AND SEQUENCE.**—Notwithstanding the implementation deadline under paragraph (1) and in lieu of a schedule and sequence under paragraph (2)(A)(iii)(VII), a railroad carrier or other entity subject to paragraph (1) may include in its revised plan an alternative schedule and sequence for implementing a positive train control system, subject to review under paragraph (3). Such schedule and sequence shall provide for implementation of a positive train control system as soon as practicable, but not later than the date that is 24 months after the implementation deadline under paragraph (1).

(C) **AMENDMENTS.**—A railroad carrier or other entity subject to paragraph (1) may file a request to amend a revised plan, including any alternative schedule and sequence, as applicable, in accordance with section 236.1021 of title 49, Code of Federal Regulations.

(D) **COMPLIANCE.**—A railroad carrier or other entity subject to paragraph (1) shall implement a positive train control system in accordance with its revised plan, including any amendments or any alternative schedule and sequence approved by the Secretary under paragraph (3).

(3) **SECRETARIAL REVIEW.**—

(A) **NOTIFICATION.**—A railroad carrier or other entity that submits a revised plan under paragraph (1) and proposes an alternative schedule and sequence under paragraph (2)(B) shall submit to the Secretary a written notification when such railroad carrier or other entity is prepared for review under subparagraph (B).

(B) **CRITERIA.**—Not later than 90 days after a railroad carrier or other entity submits a notification under subparagraph (A), the Secretary shall review the alternative schedule and sequence submitted pursuant to paragraph (2)(B) and determine whether the railroad carrier or other entity has demonstrated, to the satisfaction of the Secretary, that such carrier or entity has—

(i) installed all positive train control system hardware consistent with the plan contents provided pursuant to paragraph (2)(A)(iii)(II) on or before the implementation deadline under paragraph (1);

(ii) acquired all spectrum necessary for implementation of a positive train control system, consistent with the plan contents provided pursuant to paragraph (2)(A)(iii)(I) on or before the implementation deadline under paragraph (1);

(iii) completed employee training required under the applicable positive train control system regulations;

(iv) included in its revised plan an alternative schedule and sequence for implementing a positive train control system as soon as practicable, pursuant to paragraph (2)(B);

(v) certified to the Secretary in writing that it will be in full compliance with the requirements of this section on or before the date provided in an alternative schedule and sequence, subject to approval by the Secretary;

(vi) in the case of a Class I railroad carrier and Amtrak, implemented a positive train control system or initiated revenue service demonstration on the majority of territories, such as subdivisions or districts, or route miles that are owned or controlled by such carrier and required to have operations governed by a positive train control system; and

(vii) in the case of any other railroad carrier or other entity not subject to clause (vi)—

(I) initiated revenue service demonstration on at least 1 territory that is required to have operations governed by a positive train control system; or

(II) met any other criteria established by the Secretary.

(C) **DECISION.**—

(i) **IN GENERAL.**—Not later than 90 days after the receipt of the notification from a

railroad carrier or other entity under subparagraph (A), the Secretary shall—

(I) approve an alternative schedule and sequence submitted pursuant to paragraph (2)(B) if the railroad carrier or other entity meets the criteria in subparagraph (B); and

(II) notify in writing the railroad carrier or other entity of the decision.

(ii) DEFICIENCIES.—Not later than 45 days after the receipt of the notification under subparagraph (A), the Secretary shall provide to the railroad carrier or other entity a written notification of any deficiencies that would prevent approval under clause (i) and provide the railroad carrier or other entity an opportunity to correct deficiencies before the date specified in such clause.

(D) REVISED DEADLINES.—

(i) PENDING REVIEWS.—For a railroad carrier or other entity that submits a notification under subparagraph (A), the deadline for implementation of a positive train control system required under paragraph (1) shall be extended until the date on which the Secretary approves or disapproves the alternative schedule and sequence, if such date is later than the implementation date under paragraph (1).

(ii) ALTERNATIVE SCHEDULE AND SEQUENCE DEADLINE.—If the Secretary approves a railroad carrier or other entity's alternative schedule and sequence under subparagraph (C)(i), the railroad carrier or other entity's deadline for implementation of a positive train control system required under paragraph (1) shall be the date specified in that railroad carrier or other entity's alternative schedule and sequence. The Secretary may not approve a date for implementation that is later than 24 months from the deadline in paragraph (1).

(b) TECHNICAL ASSISTANCE.—The Secretary may provide technical assistance and guidance to railroad carriers in developing the plans required under subsection (a).

(c) PROGRESS REPORTS AND REVIEW.—

(1) PROGRESS REPORTS.—Each railroad carrier or other entity subject to subsection (a) shall, not later than March 31, 2016, and annually thereafter until such carrier or entity has completed implementation of a positive train control system, submit to the Secretary a report on the progress toward implementing such systems, including—

(A) the information on spectrum acquisition provided pursuant to subsection (a)(2)(A)(iii)(I);

(B) the totals provided pursuant to subclauses (III) and (V) of subsection (a)(2)(A)(iii), by territory, if applicable;

(C) the extent to which the railroad carrier or other entity is complying with the implementation schedule under subsection (a)(2)(A)(iii)(VII) or subsection (a)(2)(B);

(D) any update to the information provided under subsection (a)(2)(A)(iii)(VI);

(E) for each entity providing regularly scheduled intercity or commuter rail pas-

senger transportation, a description of the resources identified and allocated to implement a positive train control system;

(F) for each railroad carrier or other entity subject to subsection (a), the total number of route miles on which a positive train control system has been initiated for revenue service demonstration or implemented, as compared to the total number of route miles required to have a positive train control system under subsection (a); and

(G) any other information requested by the Secretary.

(2) PLAN REVIEW.—The Secretary shall at least annually conduct reviews to ensure that railroad carriers or other entities are complying with the revised plan submitted under subsection (a), including any amendments or any alternative schedule and sequence approved by the Secretary. Such railroad carriers or other entities shall provide such information as the Secretary determines necessary to adequately conduct such reviews.

(3) PUBLIC AVAILABILITY.—Not later than 60 days after receipt, the Secretary shall make available to the public on the Internet Web site of the Department of Transportation any report submitted pursuant to paragraph (1) or subsection (d), but may exclude, as the Secretary determines appropriate—

(A) proprietary information; and

(B) security-sensitive information, including information described in section 1520.5(a) of title 49, Code of Federal Regulations.

(d) REPORT TO CONGRESS.—Not later than July 1, 2018, 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 on the progress of each railroad carrier or other entity subject to subsection (a) in implementing a positive train control system.

(e) ENFORCEMENT.—The Secretary is authorized to assess civil penalties pursuant to chapter 213 for—

(1) a violation of this section;

(2) the failure to submit or comply with the revised plan required under subsection (a), including the failure to comply with the totals provided pursuant to subclauses (III) and (V) of subsection (a)(2)(A)(iii) and the spectrum acquisition dates provided pursuant to subsection (a)(2)(A)(iii)(I);

(3) failure to comply with any amendments to such revised plan pursuant to subsection (a)(2)(C); and

(4) the failure to comply with an alternative schedule and sequence submitted under subsection (a)(2)(B) and approved by the Secretary under subsection (a)(3)(C).

(f) OTHER RAILROAD CARRIERS.—Nothing in this section restricts the discretion of the Secretary to require railroad carriers other than those specified in subsection (a) to implement a positive train control system pursuant to this section or section 20156, or to specify the period by which implementation shall occur that does not exceed the time limits established in this section or section 20156. In exercising such dis-

cretion, the Secretary shall, at a minimum, consider the risk to railroad employees and the public associated with the operations of the railroad carrier.

(g) REGULATIONS.—

(1) IN GENERAL.—The Secretary shall prescribe regulations or issue orders necessary to implement this section, including regulations specifying in appropriate technical detail the essential functionalities of positive train control systems, and the means by which those systems will be qualified.

(2) CONFORMING REGULATORY AMENDMENTS.—Immediately after the date of the enactment of the Positive Train Control Enforcement and Implementation Act of 2015, the Secretary—

(A) shall remove or revise the date-specific deadlines in the regulations or orders implementing this section to the extent necessary to conform with the amendments made by such Act; and

(B) may not enforce any such date-specific deadlines or requirements that are inconsistent with the amendments made by such Act.

(3) REVIEW.—Nothing in the Positive Train Control Enforcement and Implementation Act of 2015, or the amendments made by such Act, shall be construed to require the Secretary to issue regulations to implement such Act or amendments other than the regulatory amendments required to conform with this section.

(4) CLARIFICATION.—

(A) PROHIBITIONS.—The Secretary is prohibited from—

(i) approving or disapproving a revised plan submitted under subsection (a)(1);

(ii) considering a revised plan under subsection (a)(1) as a request for amendment under section 236.1021 of title 49, Code of Federal Regulations; or

(iii) requiring the submission, as part of the revised plan under subsection (a)(1), of—

(I) only a schedule and sequence under subsection (a)(2)(A)(iii)(VII); or

(II) both a schedule and sequence under subsection (a)(2)(A)(iii)(VII) and an alternative schedule and sequence under subsection (a)(2)(B).

(B) CIVIL PENALTY AUTHORITY.—Except as provided in paragraph (2) and this paragraph, nothing in this subsection shall be construed to limit the Secretary's authority to assess civil penalties pursuant to subsection (e), consistent with the requirements of this section.

(C) RETAINED REVIEW AUTHORITY.—The Secretary retains the authority to review revised plans submitted under subsection (a)(1) and is authorized to require modifications of those plans to the extent necessary to ensure that such plans include the descriptions under subsection (a)(2)(A)(i), the contents under subsection (a)(2)(A)(ii), and the year or years, totals, and summary under subsection (a)(2)(A)(iii)(I) through (VI).

(h) CERTIFICATION.—

(1) IN GENERAL.—The Secretary shall not permit the installation of any positive train

control system or component in revenue service unless the Secretary has certified that any such system or component has been approved through the approval process set forth in part 236 of title 49, Code of Federal Regulations, and complies with the requirements of that part.

(2) PROVISIONAL OPERATION.—Notwithstanding the requirements of paragraph (1), the Secretary may authorize a railroad carrier or other entity to commence operation in revenue service of a positive train control system or component to the extent necessary to enable the safe implementation and operation of a positive train control system in phases.

(i) DEFINITIONS.—In this section:

(1) EQUIVALENT OR GREATER LEVEL OF SAFETY.—The term “equivalent or greater level of safety” means the compliance of a railroad carrier with—

(A) appropriate operating rules in place immediately prior to the use or implementation of such carrier's positive train control system, except that such rules may be changed by such carrier to improve safe operations; and

(B) all applicable safety regulations, except as specified in subsection (j).

(2) HARDWARE.—The term “hardware” means a locomotive apparatus, a wayside interface unit (including any associated legacy signal system replacements), switch position monitors needed for a positive train control system, physical back office system equipment, a base station radio, a wayside radio, a locomotive radio, or a communication tower or pole.

(3) INTEROPERABILITY.—The term “interoperability” means the ability to control locomotives of the host railroad and tenant railroad to communicate with and respond to the positive train control system, including uninterrupted movements over property boundaries.

(4) MAIN LINE.—The term “main line” means a segment or route of railroad tracks over which 5,000,000 or more gross tons of railroad traffic is transported annually, except that—

(A) the Secretary may, through regulations under subsection (g), designate additional tracks as main line as appropriate for this section; and

(B) for intercity rail passenger transportation or commuter rail passenger transportation routes or segments over which limited or no freight railroad operations occur, the Secretary shall define the term “main line” by regulation.

(5) POSITIVE TRAIN CONTROL SYSTEM.—The term “positive train control system” means a system designed to prevent train-to-train collisions, over-speed derailments, incursions into established work zone limits, and the movement of a train through a switch left in the wrong position.

(j) EARLY ADOPTION.—

(1) OPERATIONS.—From the date of enactment of the Positive Train Control Enforcement and Implementation Act of 2015 through

the 1-year period beginning on the date on which the last Class I railroad carrier's positive train control system subject to subsection (a) is certified by the Secretary under subsection (h)(1) of this section and is implemented on all of that railroad carrier's lines required to have operations governed by a positive train control system, any railroad carrier, including any railroad carrier that has its positive train control system certified by the Secretary, shall not be subject to the operational restrictions set forth in sections 236.567 and 236.1029 of title 49, Code of Federal Regulations, that would apply where a controlling locomotive that is operating in, or is to be operated in, a positive train control-equipped track segment experiences a positive train control system failure, a positive train control operated consist is not provided by another railroad carrier when provided in interchange, or a positive train control system otherwise fails to initialize, cuts out, or malfunctions, provided that such carrier operates at an equivalent or greater level of safety than the level achieved immediately prior to the use or implementation of its positive train control system.

(2) **SAFETY ASSURANCE.**—During the period described in paragraph (1), if a positive train control system that has been certified and implemented fails to initialize, cuts out, or malfunctions, the affected railroad carrier or other entity shall make reasonable efforts to determine the cause of the failure and adjust, repair, or replace any faulty component causing the system failure in a timely manner.

(3) **PLANS.**—The positive train control safety plan for each railroad carrier or other entity shall describe the safety measures, such as operating rules and actions to comply with applicable safety regulations, that will be put in place during any system failure.

(4) **NOTIFICATION.**—During the period described in paragraph (1), if a positive train control system that has been certified and implemented fails to initialize, cuts out, or malfunctions, the affected railroad carrier or other entity shall submit a notification to the appropriate regional office of the Federal Railroad Administration within 7 days of the system failure, or under alternative location and deadline requirements set by the Secretary, and include in the notification a description of the safety measures the affected railroad carrier or other entity has in place.

(k) **SMALL RAILROADS.**—Not later than 120 days after the date of the enactment of this Act,¹ the Secretary shall amend section 236.1006(b)(4)(iii)(B) of title 49, Code of Federal Regulations (relating to equipping locomotives for applicable Class II and Class III railroads operating in positive train control territory) to extend each deadline under such section by 3 years.

(l) **REVENUE SERVICE DEMONSTRATION.**—When a railroad carrier or other entity subject to (a)(1)² notifies the Secretary it is prepared to initiate revenue service demonstration, it shall also no-

tify any applicable tenant railroad carrier or other entity subject to subsection (a)(1).

(m) **REPORTS ON POSITIVE TRAIN CONTROL SYSTEM PERFORMANCE.**—

(1) **IN GENERAL.**—Each host railroad subject to this section or subpart I of part 236 of title 49, Code of Federal Regulations, shall electronically submit to the Secretary of Transportation a Report of PTC System Performance on Form FRA F 6180.152, which shall be submitted on or before the applicable due date set forth in paragraph (3) and contain the information described in paragraph (2), which shall be separated by the host railroad, each applicable tenant railroad, and each positive train control-governed track segment, consistent with the railroad's positive train control Implementation Plan described in subsection (a)(1).

(2) **REQUIRED INFORMATION.**—Each report submitted pursuant to paragraph (1) shall include, for the applicable reporting period—

(A) the number of positive train control system initialization failures, disaggregated by the number of initialization failures for which the source or cause was the onboard subsystem, the wayside subsystem, the communications subsystem, the back office subsystem, or a non-positive train control component;

(B) the number of positive train control system cut outs, disaggregated by each component listed in subparagraph (A) that was the source or cause of such cut outs;

(C) the number of positive train control system malfunctions, disaggregated by each component listed in subparagraph (A) that was the source or cause of such malfunctions;

(D) the number of enforcements by the positive train control system;

(E) the number of enforcements by the positive train control system in which it is reasonable to assume an accident or incident was prevented;

(F) the number of scheduled attempts at initialization of the positive train control system;

(G) the number of train miles governed by the positive train control system; and

(H) a summary of any actions the host railroad and its tenant railroads are taking to reduce the frequency and rate of initialization failures, cut outs, and malfunctions, such as any actions to correct or eliminate systemic issues and specific problems.

(3) **DUE DATES.**—

(A) **IN GENERAL.**—Except as provided in subparagraph (B), each host railroad shall electronically submit the report required under paragraph (1) not later than—

(i) April 30, for the period from January 1 through March 31;

(ii) July 31, for the period from April 1 through June 30;

(iii) October 31, for the period from July 1 through September 30; and

(iv) January 31, for the period from October 1 through December 31 of the prior calendar year.

¹ See References in Text note below.

² So in original. Probably should be preceded by "subsection".

(B) **FREQUENCY REDUCTION.**—Beginning on the date that is 3 years after the date of enactment of the Passenger Rail Expansion and Rail Safety Act of 2021, the Secretary shall reduce the frequency with which host railroads are required to submit the report described in paragraph (1) to not less frequently than twice per year, unless the Secretary—

- (i) determines that quarterly reporting is in the public interest; and
- (ii) publishes a justification for such determination in the Federal Register.

(4) **TENANT RAILROADS.**—Each tenant railroad that operates on a host railroad's positive train control-governed main line and is not currently subject to an exception under section 236.1006(b) of title 49, Code of Federal Regulations, shall submit the information described in paragraph (2) to each applicable host railroad on a continuous basis.

(5) **ENFORCEMENTS.**—Any railroad operating a positive train control system classified under Federal Railroad Administration Type Approval number FRA-TA-2010-001 or FRA-TA-2013-003 shall begin submitting the metric required under paragraph (2)(D) not later than January 31, 2023.

(Added Pub. L. 110-432, div. A, title I, §104(a), Oct. 16, 2008, 122 Stat. 4856; amended Pub. L. 114-73, title I, §1302(b), (c), Oct. 29, 2015, 129 Stat. 576, 582; Pub. L. 114-94, div. A, title XI, §11315(d), Dec. 4, 2015, 129 Stat. 1675; Pub. L. 117-58, div. B, title II, §22414, Nov. 15, 2021, 135 Stat. 744.)

Editorial Notes

REFERENCES IN TEXT

The date of enactment of the Positive Train Control Enforcement and Implementation Act of 2015, referred to in subsecs. (a)(1), (g)(2), and (j)(1), is the date of enactment of section 1302 of Pub. L. 114-73, which was approved Oct. 29, 2015.

The Positive Train Control Enforcement and Implementation Act of 2015, referred to in subsec. (g)(2), (3), is Pub. L. 114-73, title I, §1302, Oct. 29, 2015, 129 Stat. 576, which amended this section and enacted provisions set out as a note under section 20101 of this title. For complete classification of this Act to the Code, see Short Title of 2015 Amendment note set out under section 20101 of this title and Tables.

The date of the enactment of this Act, referred to in subsec. (k), probably means the date of enactment of section 1302 of Pub. L. 114-73, known as the Positive Train Control Enforcement and Implementation Act of 2015, which enacted subsec. (k) and was approved Oct. 29, 2015.

The date of enactment of the Passenger Rail Expansion and Rail Safety Act of 2021, referred to in subsec. (m)(3)(B), is the date of enactment of title II of div. B of Pub. L. 117-58, which was approved Nov. 15, 2021.

AMENDMENTS

2021—Subsec. (m). Pub. L. 117-58 added subsec. (m).

2015—Subsec. (a)(1). Pub. L. 114-73, §1302(b)(1)(A)–(D), in introductory provisions, substituted “90 days after the date of enactment of the Positive Train Control Enforcement and Implementation Act of 2015” for “18 months after the date of enactment of the Rail Safety Improvement Act of 2008”, “a revised plan for implementing” for “a plan for implementing”, and “December 31, 2018” for “December 31, 2015” and struck out “develop and” before “submit to the Secretary of Transportation”.

Subsec. (a)(1)(B). Pub. L. 114-73, §1302(b)(1)(E), substituted “defined in sections” for “defined in parts”.

Subsec. (a)(2), (3). Pub. L. 114-73, §1302(b)(2), added pars. (2) and (3) and struck out former par. (2). Prior to amendment, text of par. (2) read as follows: “The plan shall describe how it will provide for interoperability of the system with movements of trains of other railroad carriers over its lines and shall, to the extent practical, implement the system in a manner that addresses areas of greater risk before areas of lesser risk. The railroad carrier shall implement a positive train control system in accordance with the plan.”

Subsecs. (c) to (e). Pub. L. 114-73, §1302(b)(3), added subsecs. (c) to (e) and struck out former subsecs. (c) to (e) which related, respectively, to review and approval of plans, progress report on implementation of positive train control systems, and enforcement of section.

Subsec. (g). Pub. L. 114-73, §1302(c), designated existing provisions as par. (1), inserted heading, and added pars. (2) and (3).

Subsec. (g)(3). Pub. L. 114-94, §11315(d)(2), substituted “to conform with this section” for “by paragraph (2) and subsection (k)”.

Subsec. (g)(4). Pub. L. 114-94, §11315(d)(1), added par. (4).

Subsec. (h). Pub. L. 114-73, §1302(b)(4), designated existing provisions as par. (1), inserted heading, and added par. (2).

Subsec. (i). Pub. L. 114-73, §1302(b)(5), added pars. (1) and (2) and redesignated former pars. (1) to (3) as (3) to (5), respectively.

Subsecs. (j) to (l). Pub. L. 114-73, §1302(b)(6), added subsecs. (j) to (l).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114-94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

§ 20158. Railroad safety technology grants

(a) **GRANT PROGRAM.**—The Secretary of Transportation shall establish a grant program for the deployment of train control technologies, train control component technologies, processor-based technologies, electronically controlled pneumatic brakes, rail integrity inspection systems, rail integrity warning systems, switch position indicators and monitors, remote control power switch technologies, track integrity circuit technologies, and other new or novel railroad safety technology.

(b) **GRANT CRITERIA.**—

(1) **ELIGIBILITY.**—Grants shall be made under this section to eligible passenger and freight railroad carriers, railroad suppliers, and State and local governments for projects described in subsection (a) that have a public benefit of improved safety and network efficiency.

(2) **CONSIDERATIONS.**—Priority shall be given to projects that—

(A) focus on making technologies interoperable between railroad systems, such as train control technologies;

(B) accelerate train control technology deployment on high-risk corridors, such as those that have high volumes of hazardous materials shipments or over which commuter or passenger trains operate; or

(C) benefit both passenger and freight safety and efficiency.

(3) **IMPLEMENTATION PLANS.**—Grants may not be awarded under this section to entities that

fail to develop and submit to the Secretary the plans required by sections 20156(e)(2) and 20157.

(4) **MATCHING REQUIREMENTS.**—Federal funds for any eligible project under this section shall not exceed 80 percent of the total cost of such project.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Secretary of Transportation \$50,000,000 for each of fiscal years 2009 through 2013 to carry out this section. Amounts appropriated pursuant to this section shall remain available until expended.

(Added Pub. L. 110-432, div. A, title I, §105(a), Oct. 16, 2008, 122 Stat. 4858.)

§ 20159. Roadway user sight distance at highway-rail grade crossings

Not later than 18 months after the date of enactment of the Rail Safety Improvement Act of 2008, the Secretary of Transportation, after consultation with the Federal Railroad Administration, the Federal Highway Administration, and States, shall develop and make available to States model legislation providing for improving safety by addressing sight obstructions, including vegetation growth, topographic features, structures, and standing railroad equipment, at highway-rail grade crossings that are equipped solely with passive warnings, as recommended by the Inspector General of the Department of Transportation in Report No. MH-2007-044.

(Added Pub. L. 110-432, div. A, title II, §203(a), Oct. 16, 2008, 122 Stat. 4869; amended Pub. L. 114-94, div. A, title XI, §11316(f), Dec. 4, 2015, 129 Stat. 1676.)

Editorial Notes

REFERENCES IN TEXT

The date of enactment of the Rail Safety Improvement Act of 2008, referred to in text, is the date of enactment of div. A of Pub. L. 110-432, which was approved Oct. 16, 2008.

AMENDMENTS

2015—Pub. L. 114-94 substituted “the Secretary of Transportation” for “the Secretary”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114-94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

§ 20160. National crossing inventory

(a) **INITIAL REPORTING OF INFORMATION ABOUT PREVIOUSLY UNREPORTED CROSSINGS.**—Not later than 1 year after the date of enactment of the Rail Safety Improvement Act of 2008 or 6 months after a new crossing becomes operational, whichever occurs later, each railroad carrier shall—

(1) report to the Secretary of Transportation current information, including information about warning devices and signage, as specified by the Secretary, concerning each pre-

viously unreported crossing through which it operates with respect to the trackage over which it operates; or

(2) ensure that the information has been reported to the Secretary by another railroad carrier that operates through the crossing.

(b) **UPDATING OF CROSSING INFORMATION.**—

(1) On a periodic basis beginning not later than 2 years after the date of enactment of the Rail Safety Improvement Act of 2008 and on or before September 30 of every year thereafter, or as otherwise specified by the Secretary, each railroad carrier shall—

(A) report to the Secretary current information, including information about warning devices and signage, as specified by the Secretary, concerning each crossing through which it operates with respect to the trackage over which it operates; or

(B) ensure that the information has been reported to the Secretary by another railroad carrier that operates through the crossing.

(2) A railroad carrier that sells a crossing or any part of a crossing on or after the date of enactment of the Rail Safety Improvement Act of 2008 shall, not later than the date that is 18 months after the date of enactment of that Act or 3 months after the sale, whichever occurs later, or as otherwise specified by the Secretary, report to the Secretary current information, as specified by the Secretary, concerning the change in ownership of the crossing or part of the crossing.

(c) **RULEMAKING AUTHORITY.**—The Secretary shall prescribe the regulations necessary to implement this section. The Secretary may enforce each provision of the Department of Transportation’s statement of the national highway-rail crossing inventory policy, procedures, and instruction for States and railroads that is in effect on the date of enactment of the Rail Safety Improvement Act of 2008, until such provision is superseded by a regulation issued under this section.

(d) **DEFINITIONS.**—In this section:

(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 either at grade or grade-separated, 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) **STATE.**—The term “State” means a State of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(Added Pub. L. 110-432, div. A, title II, §204(a), Oct. 16, 2008, 122 Stat. 4869; amended Pub. L.

114-94, div. A, title XI, § 11316(g), Dec. 4, 2015, 129 Stat. 1676.)

Editorial Notes

REFERENCES IN TEXT

The date of enactment of the Rail Safety Improvement Act of 2008, referred to in subsecs. (a) to (c), is the date of enactment of div. A of Pub. L. 110-432, which was approved Oct. 16, 2008.

AMENDMENTS

2015—Subsec. (a)(1). Pub. L. 114-94, § 11316(g)(1), substituted “concerning each previously unreported crossing through which it operates with respect to the trackage over which it operates” for “concerning each previously unreported crossing through which it operates or with respect to the trackage over which it operates”.

Subsec. (b)(1)(A). Pub. L. 114-94, § 11316(g)(2), substituted “concerning each crossing through which it operates with respect to the trackage over which it operates” for “concerning each crossing through which it operates or with respect to the trackage over which it operates”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114-94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

§ 20161. Fostering introduction of new technology to improve safety at highway-rail grade crossings

(a) FINDINGS.—

(1) Collisions between highway users and trains at highway-rail grade crossings continue to cause an unacceptable loss of life, serious personal injury, and property damage.

(2) While elimination of at-grade crossings through consolidation of crossings and grade separations offers the greatest long-term promise for optimizing the safety and efficiency of the two modes of transportation, over 140,000 public grade crossings remain on the general rail system—approximately one for each route mile on the general rail system.

(3) Conventional highway traffic control devices such as flashing lights and gates are often effective in warning motorists of a train’s approach to an equipped crossing.

(4) Since enactment of the Highway Safety Act of 1973, over \$4,200,000,000 of Federal funding has been invested in safety improvements at highway-rail grade crossings, yet a majority of public highway-rail grade crossings are not yet equipped with active warning systems.

(5) The emergence of new technologies presents opportunities for more effective and affordable warnings and safer passage of highway users and trains at remaining highway-rail grade crossings.

(6) Implementation of new crossing safety technology will require extensive cooperation between highway authorities and railroad carriers.

(7) Federal Railroad Administration regulations establishing performance standards for processor-based signal and train control systems provide a suitable framework for quali-

fication of new or novel technology at highway-rail grade crossings, and the Federal Highway Administration’s Manual on Uniform Traffic Control Devices provides an appropriate means of determining highway user interface with such new technology.

(b) POLICY.—It is the policy of the United States to encourage the development of new technology that can prevent loss of life and injuries at highway-rail grade crossings. The Secretary of Transportation is designated to carry out this policy in consultation with States and necessary public and private entities.

(c) SUBMISSION OF NEW TECHNOLOGY PROPOSALS.—Railroad carriers and railroad suppliers may submit for review and approval to the Secretary such new technology designed to improve safety at highway-rail grade crossings. The Secretary shall approve by order the new technology designed to improve safety at highway-rail grade crossings in accordance with Federal Railroad Administration standards for the development and use of processor-based signal and train control systems and shall consider the effects on safety of highway-user interface with the new technology.

(d) EFFECT OF SECRETARIAL APPROVAL.—If the Secretary approves by order new technology to provide warning to highway users at a highway-rail grade crossing and such technology is installed at a highway-rail grade crossing in accordance with the conditions of the approval, this determination preempts any State statute or regulation concerning the adequacy of the technology in providing warning at the crossing.

(Added Pub. L. 110-432, div. A, title II, § 210(a), Oct. 16, 2008, 122 Stat. 4876.)

Editorial Notes

REFERENCES IN TEXT

The Highway Safety Act of 1973, referred to in subsec. (a)(4), is title II of Pub. L. 93-87, Aug. 13, 1973, 87 Stat. 282. For complete classification of this Act to the Code, see Short Title of 1973 Amendment note set out under section 401 of Title 23, Highways, and Tables.

§ 20162. Minimum training standards and plans

(a) IN GENERAL.—The Secretary of Transportation shall, not later than 1 year after the date of enactment of the Rail Safety Improvement Act of 2008, establish—

(1) minimum training standards for each class and craft of safety-related railroad employee (as defined in section 20102) and equivalent railroad carrier contractor and subcontractor employees, which shall require railroad carriers, contractors, and subcontractors to qualify or otherwise document the proficiency of such employees in each such class and craft regarding their knowledge of, and ability to comply with, Federal railroad safety laws and regulations and railroad carrier rules and procedures promulgated to implement those Federal railroad safety laws and regulations;

(2) a requirement that railroad carriers, contractors, and subcontractors develop and submit training and qualification plans to the Secretary for approval, including training pro-

grams and information deemed necessary by the Secretary to ensure that all safety-related railroad employees receive appropriate training in a timely manner; and

(3) a minimum training curriculum, and ongoing training criteria, testing, and skills evaluation measures to ensure that safety-related railroad employees, and contractor and subcontractor employees, charged with the inspection of track or railroad equipment are qualified to assess railroad carrier compliance with Federal standards to identify defective conditions and initiate immediate remedial action to correct critical safety defects that are known to contribute to derailments, accidents, incidents, or injuries, and, in implementing the requirements of this paragraph, take into consideration existing training programs of railroad carriers.

(b) **APPROVAL.**—The Secretary shall review and approve the plans required under subsection (a)(2) utilizing an approval process required for programs to certify the qualification of locomotive engineers pursuant to part 240 of title 49, Code of Federal Regulations.

(c) **EXEMPTION.**—The Secretary may exempt railroad carriers and railroad carrier contractors and subcontractors from submitting training plans for which the Secretary has issued training regulations before the date of enactment of the Rail Safety Improvement Act of 2008.

(Added Pub. L. 110-432, div. A, title IV, § 401(a), Oct. 16, 2008, 122 Stat. 4883; amended Pub. L. 114-94, div. A, title XI, § 11316(h), Dec. 4, 2015, 129 Stat. 1677.)

Editorial Notes

REFERENCES IN TEXT

The date of enactment of the Rail Safety Improvement Act of 2008, referred to in subsecs. (a) and (c), is the date of enactment of div. A of Pub. L. 110-432, which was approved Oct. 16, 2008.

AMENDMENTS

2015—Subsec. (a)(3). Pub. L. 114-94 substituted “railroad carrier compliance with Federal standards” for “railroad compliance with Federal standards”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114-94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

OPERATING CREW MEMBER TRAINING, QUALIFICATION, AND CERTIFICATION

Pub. L. 117-58, div. B, title II, § 22410, Nov. 15, 2021, 135 Stat. 740, provided that:

“(a) **AUDITS.**—Not later than 60 days after the date of enactment of this Act [Nov. 15, 2021], the Secretary [of Transportation] shall initiate audits of the training, qualification, and certification programs of locomotive engineers and conductors of railroad carriers, subject to the requirements of parts 240 and 242 of title 49, Code of Federal Regulations, which audits shall—

“(1) be conducted in accordance with subsection (b);

“(2) consider whether such programs are in compliance with such parts 240 and 242;

“(3) assess the type and content of training that such programs provide locomotive engineers and con-

ductors, relevant to their respective roles, including training related to installed technology;

“(4) determine whether such programs provide locomotive engineers and conductors the knowledge, skill, and ability to safely operate a locomotive or train, consistent with such parts 240 and 242;

“(5) determine whether such programs reflect the current operating practices of the railroad carrier;

“(6) assess the current practice by which railroads utilize simulator training, or any other technologies used to train and qualify locomotive engineers and conductors by examining how such technologies are used;

“(7) consider international experience and practice using similar technology, as appropriate, particularly before qualifying locomotive engineers on new or unfamiliar equipment, new train control, diagnostics, or other on-board technology;

“(8) assess the current practice for familiarizing locomotive engineers and conductors with new territory and using recurrency training to expose such personnel to normal and abnormal conditions; and

“(9) ensure that locomotive engineers and conductor training programs are considered separately, as appropriate, based on the unique requirements and regulations.

“(b) **AUDIT SCHEDULING.**—The Secretary shall—

“(1) schedule the audits required under subsection (a) to ensure that—

“(A) each Class I railroad, including the National Railroad Passenger Corporation and other intercity passenger rail providers, is audited not less frequently than once every 5 years; and

“(B) a select number, as determined appropriate by the Secretary, of Class II and Class III railroads, along with other railroads providing passenger rail service that are not included in subparagraph (A), are audited annually; and

“(2) conduct the audits described in paragraph (1)(B) in accordance with the Small Business Regulatory Enforcement Fairness Act of 1996 [title II of Pub. L. 104-121] (5 U.S.C. 601 note) and appendix C of part 209 of title 49, Code of Federal Regulations.

“(c) **UPDATES TO QUALIFICATION AND CERTIFICATION PROGRAM.**—If the Secretary, while conducting the audits required under this section, identifies a deficiency in a railroad’s training, qualification, and certification program for locomotive engineers or conductors, the railroad shall update the program to eliminate such deficiency.

“(d) **CONSULTATION AND COOPERATION.**—

“(1) **CONSULTATION.**—In conducting any audit required under this section, the Secretary shall consult with the railroad and its employees, including any nonprofit employee labor organization representing the engineers or conductors of the railroad.

“(2) **COOPERATION.**—The railroad and its employees, including any nonprofit employee labor organization representing engineers or conductors of the railroad, shall fully cooperate with any such audit, including by—

“(A) providing any relevant documents requested; and

“(B) making available any employees for interview without undue delay or obstruction.

“(3) **FAILURE TO COOPERATE.**—If the Secretary determines that a railroad or any of its employees, including any nonprofit employee labor organization representing engineers or conductors of the railroad is not fully cooperating with an audit, the Secretary shall electronically notify the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

“(e) **REVIEW OF REGULATIONS.**—The Secretary shall triennially determine whether any update to part 240 or 242 of title 49, Code of Federal Regulations, is necessary to better prepare locomotive engineers and conductors to safely operate trains by evaluating whether such regulations establish appropriate Federal standards requiring railroads—

“(1) to provide locomotive engineers or conductors the knowledge and skills to safely operate trains under conditions that reflect industry practices;

“(2) to adequately address locomotive engineer or conductor route situational awareness, including ensuring locomotive engineers and conductors to demonstrate knowledge on the physical characteristics of a territory under various conditions and using various resources;

“(3) to provide relevant and adequate hands-on training before a locomotive engineer or conductor is certified;

“(4) to adequately prepare locomotive engineers or conductors to understand relevant locomotive operating characteristics, to include instructions on functions they are required to operate on any installed technology; and

“(5) to address any other safety issue that the Secretary determines to be appropriate for better preparing locomotive engineers or conductors.

“(f) ANNUAL REPORT.—The Secretary shall publish an annual report on the public website of the Federal Railroad Administration that—

“(1) summarizes the findings of the prior year’s audits;

“(2) summarizes any updates made pursuant to subsection (c); and

“(3) excludes and confidential business information or sensitive security information.”

REPORT AND REGULATIONS ON CERTIFICATION OF CERTAIN CRAFTS OR CLASSES OF EMPLOYEES

Pub. L. 110-432, div. A, title IV, § 402(b)–(d), Oct. 16, 2008, 122 Stat. 4884, provided that, not later than 6 months after promulgating regulations under this section, the Secretary was to issue a report to Congress about whether the certification of certain crafts or classes of railroad carrier or railroad carrier contractor or subcontractor employees was necessary to reduce the number and rate of accidents and incidents or to improve railroad safety and that the Secretary could prescribe regulations requiring the certification of certain crafts or classes of employees that the Secretary determined necessary to reduce accidents and incidents or to improve railroad safety.

§ 20163. Certification of train conductors

(a) REGULATIONS.—Not later than 18 months after the date of enactment of the Rail Safety Improvement Act of 2008, the Secretary of Transportation shall prescribe regulations to establish a program requiring the certification of train conductors. In prescribing such regulations, the Secretary shall require that train conductors be trained, in accordance with the training standards developed pursuant to section 20162.

(b) PROGRAM REQUIREMENTS.—In developing the regulations required by subsection (a), the Secretary may consider the requirements of section 20135(b) through (e).

(Added Pub. L. 110-432, div. A, title IV, § 402(a), Oct. 16, 2008, 122 Stat. 4884.)

Editorial Notes

REFERENCES IN TEXT

The date of enactment of the Rail Safety Improvement Act of 2008, referred to in subsec. (a), is the date of enactment of div. A of Pub. L. 110-432, which was approved Oct. 16, 2008.

§ 20164. Development and use of rail safety technology

(a) IN GENERAL.—Not later than 1 year after the date of enactment of the Rail Safety Im-

provement Act of 2008, the Secretary of Transportation shall prescribe standards, guidance, regulations, or orders governing the development, use, and implementation of rail safety technology in dark territory, in arrangements not defined in section 20501 or otherwise not covered by Federal standards, guidance, regulations, or orders that ensure the safe operation of such technology, such as—

(1) switch position monitoring devices or indicators;

(2) radio, remote control, or other power-assisted switches;

(3) hot box, high water, or earthquake detectors;

(4) remote control locomotive zone limiting devices;

(5) slide fences;

(6) grade crossing video monitors;

(7) track integrity warning systems; or

(8) other similar rail safety technologies, as determined by the Secretary.

(b) DARK TERRITORY DEFINED.—In this section, the term “dark territory” means any territory in a railroad system that does not have a signal or train control system installed or operational.

(Added Pub. L. 110-432, div. A, title IV, § 406(a), Oct. 16, 2008, 122 Stat. 4886; amended Pub. L. 114-94, div. A, title XI, § 11316(i), Dec. 4, 2015, 129 Stat. 1677.)

Editorial Notes

REFERENCES IN TEXT

The date of enactment of the Rail Safety Improvement Act of 2008, referred to in subsec. (a), is the date of enactment of div. A of Pub. L. 110-432, which was approved Oct. 16, 2008.

AMENDMENTS

2015—Subsec. (a). Pub. L. 114-94 substituted “after the date of enactment of the Rail Safety Improvement Act of 2008” for “after enactment of the Railroad Safety Enhancement Act of 2008” in introductory provisions.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114-94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

§ 20165. Limitations on non-Federal alcohol and drug testing

(a) TESTING REQUIREMENTS.—Any non-Federal alcohol and drug testing program of a railroad carrier must provide that all post-employment tests of the specimens of employees who are subject to both the program and chapter 211 of this title be conducted using a scientifically recognized method of testing capable of determining the presence of the specific analyte at a level above the cut-off level established by the carrier.

(b) REDRESS PROCESS.—Each railroad carrier that has a non-Federal alcohol and drug testing program must provide a redress process to its employees who are subject to both the alcohol and drug testing program and chapter 211 of this title for such an employee to petition for and re-

ceive a carrier hearing to review his or her specimen test results that were determined to be in violation of the program. A dispute or grievance raised by a railroad carrier or its employee, except a probationary employee, in connection with the carrier's alcohol and drug testing program and the application of this section is subject to resolution under section 3 of the Railway Labor Act (45 U.S.C. 153).

(Added Pub. L. 110-432, div. A, title IV, § 409(a), Oct. 16, 2008, 122 Stat. 4887.)

§ 20166. Emergency escape breathing apparatus

Not later than 18 months after the date of enactment of the Rail Safety Improvement Act of 2008, the Secretary of Transportation shall prescribe regulations that require railroad carriers—

(1) to provide emergency escape breathing apparatus suitable to provide head and neck coverage with respiratory protection for all crewmembers in locomotive cabs on freight trains carrying hazardous materials that would pose an inhalation hazard in the event of release;

(2) to provide convenient storage in each freight train locomotive to enable crewmembers to access such apparatus quickly;

(3) to maintain such equipment in proper working condition; and

(4) to provide their crewmembers with appropriate training for using the breathing apparatus.

(Added Pub. L. 110-432, div. A, title IV, § 413(a), Oct. 16, 2008, 122 Stat. 4889.)

Editorial Notes

REFERENCES IN TEXT

The date of enactment of the Rail Safety Improvement Act of 2008, referred to in text, is the date of enactment of div. A. of Pub. L. 110-432, which was approved Oct. 16, 2008.

§ 20167. Reports on highway-rail grade crossing safety

(a) REPORT.—Not later than 4 years after the date by which States are required to submit State highway-rail grade crossing action plans under section 11401(b) of the Fixing America's Surface Transportation Act (49 U.S.C. 22907 note), the Administrator of the Federal Railroad Administration, in consultation with the Administrator of the Federal Highway Administration, shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that summarizes the State highway-rail grade crossing action plans, including—

(1) an analysis and evaluation of each State railway-highway crossings program under section 130 of title 23, including—

(A) compliance with section 11401 of the Fixing America's Surface Transportation Act and section 130(g) of title 23; and

(B) the specific strategies identified by each State to improve safety at highway-rail grade crossings, including crossings with multiple accidents or incidents;

(2) the progress of each State in implementing its State highway-rail grade crossings action plan;

(3) the number of highway-rail grade crossing projects undertaken pursuant to section 130 of title 23, including the distribution of such projects by cost range, road system, nature of treatment, and subsequent accident experience at improved locations;

(4) which States are not in compliance with their schedule of projects under section 130(d) of title 23; and

(5) any recommendations for future implementation of the railway-highway crossings program under section 130 of title 23.

(b) UPDATES.—Not later than 5 years after the submission of the report required under subsection (a), the Administrator of the Federal Railroad Administration, in consultation with the Administrator of the Federal Highway Administration, shall—

(1) update the report based on the State annual reports submitted pursuant to section 130(g) of title 23 and any other information obtained by or available to the Administrator of the Federal Railroad Administration; and

(2) submit the updated report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(c) DEFINITIONS.—In this section:

(1) HIGHWAY-RAIL GRADE CROSSING.—The term “highway-rail grade crossing” means a location within a State, other than a location at which 1 or more railroad tracks cross 1 or more railroad tracks at grade, at which—

(A) a public highway, road, or street, or a private roadway, including associated sidewalks and pathways, crosses 1 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—

(i) is dedicated for the use of nonvehicular traffic, including pedestrians, bicyclists, and others;

(ii) is not associated with a public highway, road, or street, or a private roadway; and

(iii) crosses 1 or more railroad tracks, either at grade or grade-separated.

(2) STATE.—The term “State” means a State of the United States or the District of Columbia.

(Added Pub. L. 117-58, div. B, title II, § 22403(b)(1), Nov. 15, 2021, 135 Stat. 735.)

Editorial Notes

REFERENCES IN TEXT

Section 11401 of the Fixing America's Surface Transportation Act, referred to in subsec. (a), is section 11401 of title XI of div. A of Pub. L. 114-94, which is set out as a note under section 22907 of this title.

PRIOR PROVISIONS

A prior section 20167, Pub. L. 110-432, div. A, title IV, § 418(a), Oct. 16, 2008, 122 Stat. 4891, related to railroad safety infrastructure improvement grants, prior to re-

peal by Pub. L. 114-94, div. A, title XI, §11301(c)(1), Dec. 4, 2015, 129 Stat. 1648, effective Oct. 1, 2015.

§ 20168. Installation of audio and image recording devices

(a) IN GENERAL.—Not later than 2 years after the date of enactment of the Passenger Rail Reform and Investment Act of 2015, the Secretary of Transportation shall promulgate regulations to require each railroad carrier that provides regularly scheduled intercity rail passenger or commuter rail passenger transportation to the public to install inward- and outward-facing image recording devices in all controlling locomotive cabs and cab car operating compartments in such passenger trains.

(b) DEVICE STANDARDS.—Each inward- and outward-facing image recording device shall—

(1) have a minimum 12-hour continuous recording capability;

(2) have crash and fire protections for any in-cab image recordings that are stored only within a controlling locomotive cab or cab car operating compartment; and

(3) have recordings accessible for review during an accident or incident investigation.

(c) REVIEW.—The Secretary shall establish a process to review and approve or disapprove an inward- or outward-facing image recording device for compliance with the standards described in subsection (b).

(d) USES.—A railroad carrier subject to the requirements of subsection (a) that has installed an inward- or outward-facing image recording device approved under subsection (c) may use recordings from that inward- or outward-facing image recording device for the following purposes:

(1) Verifying that train crew actions are in accordance with applicable safety laws and the railroad carrier's operating rules and procedures, including a system-wide program for such verification.

(2) Assisting in an investigation into the causation of a reportable accident or incident.

(3) Documenting a criminal act or monitoring unauthorized occupancy of the controlling locomotive cab or car operating compartment.

(4) Other purposes that the Secretary considers appropriate.

(e) DISCRETION.—

(1) IN GENERAL.—The Secretary may—

(A) require in-cab audio recording devices for the purposes described in subsection (d); and

(B) define in appropriate technical detail the essential features of the devices required under subparagraph (A).

(2) EXEMPTIONS.—The Secretary may exempt any railroad carrier subject to the requirements of subsection (a) or any part of the carrier's operations from the requirements under subsection (a) if the Secretary determines that the carrier has implemented an alternative technology or practice that provides an equivalent or greater safety benefit or that is better suited to the risks of the operation.

(f) TAMPERING.—A railroad carrier subject to the requirements of subsection (a) may take ap-

propriate enforcement or administrative action against any employee that tampers with or disables an audio or inward- or outward-facing image recording device installed by the railroad carrier.

(g) PRESERVATION OF DATA.—Each railroad carrier subject to the requirements of subsection (a) shall preserve recording device data for 1 year after the date of a reportable accident or incident.

(h) INFORMATION PROTECTIONS.—The Secretary may not disclose publicly any part of an in-cab audio or image recording or transcript of oral communications by or among train employees or other operating employees responsible for the movement and direction of the train, or between such operating employees and company communication centers, related to an accident or incident investigated by the Secretary. The Secretary may make public any part of a transcript or any written depiction of visual information that the Secretary determines is relevant to the accident at the time a majority of the other factual reports on the accident or incident are released to the public.

(i) PROHIBITED USE.—An in-cab audio or image recording obtained by a railroad carrier under this section may not be used to retaliate against an employee.

(j) SAVINGS CLAUSE.—Nothing in this section may be construed as requiring a railroad carrier to cease or restrict operations upon a technical failure of an inward- or outward-facing image recording device or in-cab audio device. Such railroad carrier shall repair or replace the failed inward- or outward-facing image recording device as soon as practicable.

(Added Pub. L. 114-94, div. A, title XI, §11411(a), Dec. 4, 2015, 129 Stat. 1686.)

Editorial Notes

REFERENCES IN TEXT

The date of enactment of the Passenger Rail Reform and Investment Act of 2015, referred to in subsec. (a), is the date of enactment of title XI of div. A of Pub. L. 114-94, which was approved Dec. 4, 2015.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective Oct. 1, 2015, see section 1003 of Pub. L. 114-94, set out as an Effective Date of 2015 Amendment note under section 5313 of Title 5, Government Organization and Employees.

§ 20169. Speed limit action plans

(a) IN GENERAL.—Not later than March 3, 2016, each railroad carrier providing intercity rail passenger transportation or commuter rail passenger transportation, in consultation with any applicable host railroad carrier, shall survey its entire system and identify each main track location where there is a reduction of more than 20 miles per hour from the approach speed to a curve, bridge, or tunnel and the maximum authorized operating speed for passenger trains at that curve, bridge, or tunnel.

(b) ACTION PLANS.—Not later than 120 days after the date that the survey under subsection (a) is complete, a railroad carrier described in

subsection (a) shall submit to the Secretary of Transportation an action plan that—

(1) identifies each main track location where there is a reduction of more than 20 miles per hour from the approach speed to a curve, bridge, or tunnel and the maximum authorized operating speed for passenger trains at that curve, bridge, or tunnel;

(2) describes appropriate actions to enable warning and enforcement of the maximum authorized speed for passenger trains at each location identified under paragraph (1), including—

(A) modification to automatic train control systems, if applicable, or other signal systems;

(B) increased crew size;

(C) installation of signage alerting train crews of the maximum authorized speed for passenger trains in each location identified under paragraph (1);

(D) installation of alerters;

(E) increased crew communication; and

(F) other practices;

(3) contains milestones and target dates for implementing each appropriate action described under paragraph (2); and

(4) ensures compliance with the maximum authorized speed at each location identified under paragraph (1).

(c) APPROVAL.—Not later than 90 days after the date on which an action plan is submitted under subsection (b) or (d)(2), the Secretary shall approve, approve with conditions, or disapprove the action plan.

(d) PERIODIC REVIEWS AND UPDATES.—Each railroad carrier that submits an action plan to the Secretary pursuant to subsection (b) shall—

(1) not later than 1 year after the date of enactment of the Passenger Rail Expansion and Rail Safety Act of 2021, and annually thereafter, review such plan to ensure the effectiveness of actions taken to enable warning and enforcement of the maximum authorized speed for passenger trains at each location identified pursuant to subsection (b)(1); and

(2) not later than 90 days before implementing any significant operational or territorial operating change, including initiating a new service or route, submit to the Secretary a revised action plan, after consultation with any applicable host railroad, that addresses such operational or territorial operating change.

(e) NEW SERVICE.—If a railroad carrier providing intercity rail passenger transportation or commuter rail passenger transportation did not exist on the date of enactment of the FAST Act (Public Law 114-94; 129 Stat. 1312), such railroad carrier, in consultation with any applicable host railroad carrier, shall—

(1) survey its routes pursuant to subsection (a) not later than 90 days after the date of enactment of the Passenger Rail Expansion and Rail Safety Act of 2021; and

(2) develop an action plan pursuant to subsection (b) not later than 120 days after the date on which such survey is complete.

(f) ALTERNATIVE SAFETY MEASURES.—The Secretary may exempt from the requirements under

this section each segment of track for which operations are governed by a positive train control system certified under section 20157, or any other safety technology or practice that would achieve an equivalent or greater level of safety in reducing derailment risk.

(g) PROHIBITION.—No new intercity or commuter rail passenger service may begin operation unless the railroad carrier providing such service is in compliance with the requirements under this section.

(h) SAVINGS CLAUSE.—Nothing in this section may be construed to prohibit the Secretary from applying the requirements under this section to other segments of track at high risk of overspeed derailment.

(Added Pub. L. 117-58, div. B, title II, § 22415(a), Nov. 15, 2021, 135 Stat. 746.)

Editorial Notes

REFERENCES IN TEXT

The date of enactment of the Passenger Rail Expansion and Rail Safety Act of 2021, referred to in subsecs. (d)(1) and (e)(1), is the date of enactment of title II of div. B of Pub. L. 117-58, which was approved Nov. 15, 2021.

The date of enactment of the FAST Act, referred in subsec. (e), is the date of enactment of Pub. L. 114-94, which was approved Dec. 4, 2015.

§ 20170. Pre-revenue service safety validation plan

(a) PLAN SUBMISSION.—Any railroad providing new, regularly scheduled, intercity or commuter rail passenger transportation, an extension of existing service, or a renewal of service that has been discontinued for more than 180 days shall develop and submit for review a comprehensive pre-revenue service safety validation plan to the Secretary of Transportation not later than 60 days before initiating such revenue service. Such plan shall include pertinent safety milestones and a minimum period of simulated revenue service to ensure operational readiness and that all safety sensitive personnel are properly trained and qualified.

(b) COMPLIANCE.—After submitting a plan pursuant to subsection (a), the railroad shall adopt and comply with such plan and may not amend the plan without first notifying the Secretary of the proposed amendment. Revenue service may not begin until the railroad has completed the requirements of its plan, including the minimum simulated service period required by the plan.

(c) RULEMAKING.—The Secretary shall promulgate regulations to carry out this section, including—

(1) requiring that any identified safety deficiencies be addressed and corrected before the initiation of revenue service; and

(2) establishing appropriate deadlines to enable the Secretary to review and approve the pre-revenue service safety validation plan to ensure that service is not unduly delayed.

(Added Pub. L. 117-58, div. B, title II, § 22416(a), Nov. 15, 2021, 135 Stat. 747.)

§ 20171. Requirements for railroad freight cars placed into service in the United States

(a) DEFINITIONS.—In this section:

(1) **COMPONENT.**—The term “component” means a part or subassembly of a railroad freight car.

(2) **CONTROL.**—The term “control” means the power, whether direct or indirect and whether or not exercised, through the ownership of a majority or a dominant minority of the total outstanding voting interest in an entity, representation on the board of directors of an entity, proxy voting on the board of directors of an entity, a special share in the entity, a contractual arrangement with the entity, a formal or informal arrangement to act in concert with an entity, or any other means, to determine, direct, make decisions, or cause decisions to be made for the entity.

(3) **COST OF SENSITIVE TECHNOLOGY.**—The term “cost of sensitive technology” means the aggregate cost of the sensitive technology located on a railroad freight car.

(4) **COUNTRY OF CONCERN.**—The term “country of concern” means a country that—

(A) is identified by the Department of Commerce as a nonmarket economy country (as defined in section 771(18) of the Tariff Act of 1930 (19 U.S.C. 1677(18))) as of the date of enactment of the Passenger Rail Expansion and Rail Safety Act of 2021;

(B) was identified by the United States Trade Representative in the most recent report required by section 182 of the Trade Act of 1974 (19 U.S.C. 2242) as a foreign country included on the priority watch list (as defined in subsection (g)(3) of such section); and

(C) is subject to monitoring by the Trade Representative under section 306 of the Trade Act of 1974 (19 U.S.C. 2416).

(5) **NET COST.**—The term “net cost” has the meaning given such term in chapter 4 of the USMCA or any subsequent free trade agreement between the United States, Mexico, and Canada.

(6) **QUALIFIED FACILITY.**—The term “qualified facility” means a facility that is not owned or under the control of a state-owned enterprise.

(7) **QUALIFIED MANUFACTURER.**—The term “qualified manufacturer” means a railroad freight car manufacturer that is not owned or under the control of a state-owned enterprise.

(8) **RAILROAD FREIGHT CAR.**—The term “railroad freight car” means a car designed to carry freight or railroad personnel by rail, including—

- (A) a box car;
- (B) a refrigerator car;
- (C) a ventilator car;
- (D) an intermodal well car;
- (E) a gondola car;
- (F) a hopper car;
- (G) an auto rack car;
- (H) a flat car;
- (I) a special car;
- (J) a caboose car;
- (K) a tank car; and
- (L) a yard car.

(9) **SENSITIVE TECHNOLOGY.**—The term “sensitive technology” means any device embedded with electronics, software, sensors, or other connectivity, that enables the device to

connect to, collect data from, or exchange data with another device, including—

- (A) onboard telematics;
- (B) remote monitoring software;
- (C) firmware;
- (D) analytics;
- (E) global positioning system satellite and cellular location tracking systems;
- (F) event status sensors;
- (G) predictive component condition and performance monitoring sensors; and
- (H) similar sensitive technologies embedded into freight railcar components and sub-assemblies.

(10) **STATE-OWNED ENTERPRISE.**—The term “state-owned enterprise” means—

(A) an entity that is owned by, or under the control of, a national, provincial, or local government of a country of concern, or an agency of such government; or

(B) an individual acting under the direction or influence of a government or agency described in subparagraph (A).

(11) **SUBSTANTIALLY TRANSFORMED.**—The term “substantially transformed” means a component of a railroad freight car that undergoes an applicable change in tariff classification as a result of the manufacturing process, as described in chapter 4 and related annexes of the USMCA or any subsequent free trade agreement between the United States, Mexico, and Canada.

(12) **USMCA.**—The term “USMCA” has the meaning given the term in section 3 of the United States-Mexico-Canada Agreement Implementation Act (19 U.S.C. 4502).

(b) **REQUIREMENTS FOR RAILROAD FREIGHT CARS.**—

(1) **LIMITATION ON RAILROAD FREIGHT CARS.**—A railroad freight car wholly manufactured on or after the date that is 1 year after the date of issuance of the regulations required under subsection (c)(1) may only operate on the United States general railroad system of transportation if—

(A) the railroad freight car is manufactured, assembled, and substantially transformed, as applicable, by a qualified manufacturer in a qualified facility;

(B) none of the sensitive technology located on the railroad freight car, including components necessary to the functionality of the sensitive technology, originates from a country of concern or is sourced from a state-owned enterprise; and

(C) none of the content of the railroad freight car, excluding sensitive technology, originates from a country of concern or is sourced from a state-owned enterprise that has been determined by a recognized court or administrative agency of competent jurisdiction and legal authority to have violated or infringed valid United States intellectual property rights of another including such a finding by a Federal district court under title 35 or the U.S. International Trade Commission under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337).

(2) **LIMITATION ON RAILROAD FREIGHT CAR CONTENT.**—

(A) PERCENTAGE LIMITATION.—

(i) INITIAL LIMITATION.—Not later than 1 year after the date of issuance of the regulations required under subsection (c)(1), a railroad freight car described in paragraph (1) may operate on the United States general railroad system of transportation only if not more than 20 percent of the content of the railroad freight car, calculated by the net cost of all components of the car and excluding the cost of sensitive technology, originates from a country of concern or is sourced from a state-owned enterprise.

(ii) SUBSEQUENT LIMITATION.—Effective beginning on the date that is 3 years after the date of issuance of the regulations required under subsection (c)(1), a railroad freight car described in paragraph (1) may operate on the United States general railroad system of transportation only if not more than 15 percent of the content of the railroad freight car, calculated by the net cost of all components of the car and excluding the cost of sensitive technology, originates from a country of concern or is sourced from a state-owned enterprise.

(B) CONFLICT.—The percentages specified in clauses (i) and (ii) of subparagraph (A), as applicable, shall apply notwithstanding any apparent conflict with provisions of chapter 4 of the USMCA.

(c) REGULATIONS AND PENALTIES.—

(1) REGULATIONS REQUIRED.—Not later than 2 years after the date of enactment of the Passenger Rail Expansion and Rail Safety Act of 2021, the Secretary of Transportation shall issue such regulations as are necessary to carry out this section, including for the monitoring and sensitive technology requirements of this section.

(2) CERTIFICATION REQUIRED.—To be eligible to provide a railroad freight car for operation on the United States general railroad system of transportation, the manufacturer of such car shall annually certify to the Secretary of Transportation that any railroad freight cars to be so provided meet the requirements under this section.

(3) COMPLIANCE.—

(A) VALID CERTIFICATION REQUIRED.—At the time a railroad freight car begins operation on the United States general railroad system of transportation, the manufacturer of such railroad freight car shall have valid certification described in paragraph (2) for the year in which such car begins operation.

(B) REGISTRATION OF NONCOMPLIANT CARS PROHIBITED.—A railroad freight car manufacturer may not register, or cause to be registered, a railroad freight car that does not comply with the requirements under this section in the Association of American Railroad's¹ Umler system.

(4) CIVIL PENALTIES.—

(A) IN GENERAL.—Pursuant to section 21301, the Secretary of Transportation may

assess a civil penalty of not less than \$100,000, but not more than \$250,000, for each violation of this section for each railroad freight car.

(B) PROHIBITION ON OPERATION FOR VIOLATIONS.—The Secretary of Transportation may prohibit a railroad freight car manufacturer with respect to which the Secretary has assessed more than 3 violations under subparagraph (A) from providing additional railroad freight cars for operation on the United States general railroad system of transportation until the Secretary determines—

(i) such manufacturer is in compliance with this section; and

(ii) all civil penalties assessed to such manufacturer pursuant to subparagraph (A) have been paid in full.

(Added Pub. L. 117–58, div. B, title II, §22425(a), Nov. 15, 2021, 135 Stat. 753.)

Editorial Notes

REFERENCES IN TEXT

The date of enactment of the Passenger Rail Expansion and Rail Safety Act of 2021, referred to in subsecs. (a)(4)(A) and (c)(1), is the date of enactment of title II of div. B of Pub. L. 117–58, which was approved Nov. 15, 2021.

CHAPTER 203—SAFETY APPLIANCES

Sec.

20301.	Definition and nonapplication.
20302.	General requirements.
20303.	Moving defective and insecure vehicles needing repairs.
20304.	Assumption of risk by employees.
20305.	Inspection of mail cars.
20306.	Exemption for technological improvements.

§ 20301. Definition and nonapplication

(a) DEFINITION.—In this chapter, “vehicle” means a car, locomotive, tender, or similar vehicle.

(b) NONAPPLICATION.—This chapter does not apply to the following:

(1) a train of 4-wheel coal cars.

(2) a train of 8-wheel standard logging cars if the height of each car from the top of the rail to the center of the coupling is not more than 25 inches.

(3) a locomotive used in hauling a train referred to in clause (2) of this subsection when the locomotive and cars of the train are used only to transport logs.

(4) a car, locomotive, or train used on a street railway.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 881; Pub. L. 104–287, §5(52), Oct. 11, 1996, 110 Stat. 3393.)

HISTORICAL AND REVISION NOTES

PUB. L. 103–272

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
20301(a)	45:8 (“trains, locomotives, tenders, cars, and similar vehicles”). 45:9 (3d sentence). 45:6 (1st sentence proviso).	Mar. 2, 1893, ch. 196, §6 (1st sentence proviso), 27 Stat. 532; restated Apr. 1, 1896, ch. 87, 29 Stat. 85.
20301(b)		

¹ So in original. Probably should be “Association of American Railroads”.