

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.**—