

## HISTORICAL AND REVISION NOTES—CONTINUED

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
	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).	
20114(c) .....	45:431(f).	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.

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 indus-