

spection of track or railroad equipment are qualified to assess railroad 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.)

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.

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:

“(b) REPORT.—Not later than 6 months after promulgating regulations under section 20162 of title 49, United States Code, the Secretary shall issue a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure about whether the certification of certain crafts or classes of railroad carrier or railroad carrier contractor or subcontractor employees is necessary to reduce the number and rate of accidents and incidents or to improve railroad safety.

“(c) CRAFTS AND CLASSES TO BE CONSIDERED.—As part of the report, the Secretary shall consider—

- “(1) car repair and maintenance employees;
- “(2) onboard service workers;
- “(3) rail welders;
- “(4) dispatchers;
- “(5) signal repair and maintenance employees; and
- “(6) any other craft or class of employees that the Secretary determines appropriate.

“(d) REGULATIONS.—The Secretary may prescribe regulations requiring the certification of certain crafts or classes of employees that the Secretary determines pursuant to the report required by paragraph (1) are necessary to reduce the number and rate of accidents and incidents or to improve railroad safety.”

[For definitions of “Secretary”, “railroad carrier”, and “railroad”, as used in section 402(b)-(d) 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.]

§ 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 regula-

tions, 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.)

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 enactment of the Railroad Safety Enhancement Act of 2008,¹ 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.)

REFERENCES IN TEXT

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

§ 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.

¹ See References in Text note below.

(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 receive 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.)

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. Railroad safety infrastructure improvement grants

(a) GRANT PROGRAM.—The Secretary of Transportation shall establish a grant program for safety improvements to railroad infrastructure, including the acquisition, improvement, or rehabilitation of intermodal or rail equipment or facilities, including track, bridges, tunnels, yards, buildings, passenger stations, facilities, and maintenance and repair shops.

(b) ELIGIBILITY.—Grants shall be made under this section to eligible passenger and freight railroad carriers, and State and local governments for projects described in subsection (a). Grants shall also be made available to assist a State or political subdivision thereof in establishing a quiet zone pursuant to part 222 of title 49, Code of Federal Regulations.

(c) CONSIDERATIONS.—In awarding grants, the Secretary shall consider, at a minimum—

- (1) the age and condition of the rail infrastructure of the applicant;

(2) the railroad carrier’s safety record, including accident and incident numbers and rates;

(3) the volume of hazardous materials transported by the railroad;

(4) the operation of passenger trains over the railroad; and

(5) whether the railroad carrier has submitted a railroad safety risk reduction program, as required by section 20156.

(d) MATCHING REQUIREMENTS.—Federal funds for any eligible project under this section shall not exceed 50 percent of the total cost of such project.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation \$5,000,000 for each of fiscal years 2010 through 2013 to carry out this section. Amounts appropriated pursuant to this subsection shall remain available until expended.

(Added Pub. L. 110-432, div. A, title IV, § 418(a), Oct. 16, 2008, 122 Stat. 4891.)

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”).	
20301(b)	45:9 (3d sentence proviso). 45:6 (1st sentence proviso). 45:8 (words after 16th comma).	Mar. 2, 1893, ch. 196, §6 (1st sentence proviso), 27 Stat. 532; restated Apr. 1, 1896, ch. 87, 29 Stat. 85. Mar. 2, 1903, ch. 976, §1 (words after 23d comma), 32 Stat. 943.

Subsection (a) is added to avoid repeating the substance of the definition throughout this chapter.