

which shall be in effect until the effective date of the final rule issued by the Secretary to implement this subsection.”

Subsec. (d)(1). Pub. L. 117–58, §30012(a)(3)(A)(i), substituted “Each recipient” for “Effective 1 year after the effective date of a final rule issued by the Secretary to carry out this subsection, each recipient” in introductory provisions.

Subsec. (d)(1)(A). Pub. L. 117–58, §30012(a)(3)(A)(ii), inserted “, or, in the case of a recipient receiving assistance under section 5307 that is serving an urbanized area with a population of 200,000 or more, the safety committee of the entity established under paragraph (5), followed by the board of directors (or equivalent entity) of the recipient approve,” after “recipient approve”.

Subsec. (d)(1)(B) to (H). Pub. L. 117–58, §30012(a)(3)(A)(iii)–(viii), added subpar. (B) and redesignated former subpars. (B) to (G) as (C) to (H), respectively; in subpar. (D), inserted “, and consistent with guidelines of the Centers for Disease Control and Prevention or a State health authority, minimize exposure to infectious diseases” before semicolon at end; added subpar. (F) and struck out former subpar. (F), which related to performance targets; and added subpars. (H) and (I) and struck out former subpar. (H), which related to comprehensive staff training programs.

Subsec. (d)(4), (5). Pub. L. 117–58, §30012(a)(3)(B), added pars. (4) and (5).

Subsec. (e)(4)(A)(v). Pub. L. 117–58, §30012(a)(4)(A), inserted “, inspection,” after “investigative”.

Subsec. (e)(11). Pub. L. 117–58, §30012(a)(4)(B), added par. (11).

Subsec. (k). Pub. L. 117–58, §30012(a)(5), added subsec. (k) and struck out former subsec. (k). Prior to amendment, text read as follows: “Not later than 3 years after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that—

“(1) analyzes public transportation safety trends among the States and documents the most effective safety programs implemented using grants under this section; and

“(2) describes the effect on public transportation safety of activities carried out using grants under this section.”

2015—Subsec. (b)(2)(D), (E). Pub. L. 114–94, §3013(1), added subpar. (D) and redesignated former subpar. (D) as (E).

Subsec. (e)(8) to (10). Pub. L. 114–94, §3013(2), added par. (8) and redesignated former pars. (8) and (9) as (9) and (10), respectively.

Subsec. (f)(2). Pub. L. 114–94, §3013(3), which directed insertion of “or the public transportation industry generally” after “recipients”, was executed by making the insertion after “recipient”, to reflect the probable intent of Congress.

Subsec. (g)(1). Pub. L. 114–94, §3013(4)(A), substituted “a recipient” for “an eligible State, as defined in subsection (e),” in introductory provisions.

Subsec. (g)(1)(E). Pub. L. 114–94, §3013(4)(B)–(D), added subpar. (E).

Subsec. (g)(2)(A). Pub. L. 114–94, §3013(5), inserted “or withhold funds” after “use of funds” and “or (1)(E)” after “paragraph (1)(D)”.

Subsec. (h). Pub. L. 114–94, §3013(6), added subsec. (h) and struck out former subsec. (h), which related to cost-benefit analysis.

2012—Pub. L. 112–141 amended section generally. Prior to amendment, section related to investigations of safety hazards and security risks.

2005—Pub. L. 109–59 amended section catchline and text generally, substituting provisions relating to investigations of safety hazards and security risks for provisions relating to investigation of safety hazards.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2021 AMENDMENT

Pub. L. 117–58, div. C, §30012(b)(2), Nov. 15, 2021, 135 Stat. 909, provided that: “Section 5329(k) of title 49, United States Code (as amended by subsection (a)), shall apply with respect to a State safety oversight agency on and after the date that is 2 years after the date on which the Secretary of Transportation issues the special directive to the State safety oversight agency under paragraph (5) of that section 5329(k).”

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.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

SPECIAL DIRECTIVE ON RISK-BASED INSPECTION PROGRAMS

Pub. L. 117–58, div. C, §30012(b)(1), Nov. 15, 2021, 135 Stat. 909, provided that: “Not later than 1 year after the date of enactment of this Act [Nov. 15, 2021], the Secretary of Transportation shall issue each special directive required under section 5329(k)(5) of title 49, United States Code (as added by subsection (a)).”

NO EFFECT ON INITIAL CERTIFICATION PROCESS

Pub. L. 117–58, div. C, §30012(c), Nov. 15, 2021, 135 Stat. 909, provided that: “Nothing in this section [amending this section and enacting provisions set out as a note under this section] or the amendments made by this section affects the requirements for initial approval of a State safety oversight program, including the initial deadline, under section 5329(e)(3) of title 49, United States Code.”

IMPROVED PUBLIC TRANSPORTATION SAFETY MEASURES

Pub. L. 114–94, div. A, title III, §3022, Dec. 4, 2015, 129 Stat. 1493, provided that:

“(a) REQUIREMENTS.—Not later than 90 days after publication of the report required in section 3020, the Secretary [of Transportation] shall issue a notice of proposed rulemaking on protecting public transportation operators from the risk of assault.

“(b) CONSIDERATION.—In the proposed rulemaking, the Secretary shall consider—

“(1) different safety needs of drivers of different modes;

“(2) differences in operating environments;

“(3) the use of technology to mitigate driver assault risks;

“(4) existing experience, from both agencies and operators that already are using or testing driver assault mitigation infrastructure; and

“(5) the impact of the rule on future rolling stock procurements and vehicles currently in revenue service.

“(c) SAVINGS CLAUSE.—Nothing in this section may be construed as prohibiting the Secretary from issuing different comprehensive worker protections, including standards for mitigating assaults.”

[§ 5330. Repealed. Pub. L. 112–141, div. B, § 20030(e), July 6, 2012, 126 Stat. 731]

Section, Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 831; Pub. L. 109–59, title III, §§3002(b)(4), 3029(a), Aug. 10, 2005, 119 Stat. 1545, 1625, related to State safety oversight of certain rail fixed guideway public transportation systems.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF REPEAL

Pub. L. 112-141, div. B, §20030(e), July 6, 2012, 126 Stat. 731, provided that the repeal of this section is effective 3 years after the effective date of the final rules issued by the Secretary of Transportation under section 5329(e) of this title. Such effective date is Apr. 15, 2016, see 81 F.R. 14230.

§ 5331. Alcohol and controlled substances testing

(a) DEFINITIONS.—In this section—

(1) “controlled substance” means any substance under section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802) whose use the Secretary decides has a risk to transportation safety.

(2) “person” includes any entity organized or existing under the laws of the United States, a State, territory, or possession of the United States, or a foreign country.

(3) “public transportation” means any form of public transportation, except a form the Secretary decides is covered adequately, for employee alcohol and controlled substances testing purposes, under section 20140 or 31306 of this title or section 2303a, 7101(i), or 7302(e) of title 46. The Secretary may also decide that a form of public transportation is covered adequately, for employee alcohol and controlled substances testing purposes, under the alcohol and controlled substance statutes or regulations of an agency within the Department of Transportation or the Coast Guard.

(b) TESTING PROGRAM FOR PUBLIC TRANSPORTATION EMPLOYEES.—(1)(A) In the interest of public transportation safety, the Secretary shall prescribe regulations that establish a program requiring public transportation operations that receive financial assistance under section 5307, 5309, or 5311 of this title to conduct preemployment, reasonable suspicion, random, and post-accident testing of public transportation 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 operations to conduct preemployment testing of such employees for the use of alcohol.

(B) When the Secretary considers it appropriate in the interest of safety, the Secretary may prescribe regulations for conducting periodic recurring testing of public transportation 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.

(2) In prescribing regulations under this subsection, the Secretary—

(A) shall require that post-accident testing of such a public transportation employee be conducted when loss of human life occurs in an accident involving public transportation; and

(B) may require that post-accident testing of such a public transportation employee be con-

ducted when bodily injury or significant property damage occurs in any other serious accident involving public transportation.

(c) DISQUALIFICATIONS FOR USE.—(1) When the Secretary considers it appropriate, the Secretary shall require disqualification for an established period of time or dismissal of any employee referred to in subsection (b)(1) of this section who is found—

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

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

(2) This section does not supersede any penalty applicable to a public transportation employee under another law.

(d) TESTING AND LABORATORY REQUIREMENTS.—In carrying out subsection (b) of this section, the Secretary 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