

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.